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***TAB 3***

***SBE & MBE Set Aside Process for  
Each Project Delivery Method:***

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***Option 1***

***Design-Bid-Build (D-B-B):***

**State Of Connecticut  
Department of Administrative Services And  
Division of Construction Services**

**To:** All Department of Administrative Services, Division of Construction Services Contractors

**Subject:** Set-Aside Contract Laws

Dear Sir/Madam:

The administration of Governor Dannel P. Malloy is committed to supporting the subject programs by encouraging all contractors on State projects to improve their efforts in these areas.

State law requires contractors doing business with the State to demonstrate non-discrimination by making "good faith efforts" in both hiring and in sub-contracting practices (Conn. General Statute Section 4a-60).

What does "good faith efforts" mean? It means that you, as contractors, must act affirmatively. It is not good enough to say you can't find minorities and women. You must seek them out. That is the law, and the Department of Administrative Services, Division of Construction Services (CT DCS) is committed to enforcing the law. At the same time, we are ready to assist you in making "good faith efforts."

The Department of Administrative Services, Division of Construction Services is required by CGS 4a-60g(b) and (c) to set aside projects (amounting to 25% of its annual contract awards) for small business and 25% of that amount for minority business enterprises. CT DCS may require any general contractor to set aside a portion of the contract for subcontractors who are small businesses or minority business enterprises in lieu of setting aside a project or in addition to setting aside a project.

Therefore, unless otherwise specified in the Invitation to Bid, CT DCS will require contractors to subcontract 25% of the total contract value to small businesses certified by the Department of Administrative Services and further will require contractors to subcontract 25% of that 25% to minority and women small contractors certified as minority business enterprises by the Department of Administrative Services (CT DAS). These statutory goals represent the minimum values expected to be achieved by this program.

Together, we can meet the challenge of providing equal opportunity for minority and women-owned businesses and workers in our State. We expect superior results in the areas of affirmative action, equal employment opportunity, and set-aside contracts. The CT DCS standard in these areas is not just minimal effort. Our goal is to uphold the letter and the spirit of the law.

Sincerely yours,

Donald J. DeFronzo  
Acting Commissioner

PB:pb

## Non-Discrimination and Affirmative Action Provisions for State Contracts

### Section 1) CHRO – Contract Compliance Regulations Notification to Bidders

The contract to be awarded is subject to contract compliance requirements mandated by Sections 4a-60 and 4a-60a of the Connecticut General Statutes; and, when the awarding agency is the State, Sections 46a-71(d) and 46a-81i(d) of the Connecticut General Statutes. There are Contract Compliance Regulations codified at Section 46a-68j-21 through 43 of the Regulations of Connecticut State Agencies, which establish a procedure for awarding all contracts covered by Sections 4a-60 and 46a-71(d) of the Connecticut General Statutes.

According to Section 46a-68j-30(9) of the Contract Compliance Regulations, every agency awarding a contract subject to the contract compliance requirements has an obligation to "aggressively solicit the participation of legitimate minority business enterprises as bidders, contractors, subcontractors and suppliers of materials." "Minority business enterprise" is defined in Section 4a-60 of the Connecticut General Statutes as a small contractor or supplier of materials fifty-one percent or more of the capital stock or assets of which is owned by a person or persons: (1) Who are active in the daily affairs of the enterprise; (2) who have the power to direct the management and policies of the enterprise; and (3) who are members of a minority, as such term is defined in subsection (a) of Section 32-9n." "Minority" groups are defined in Section 32-9n of the Connecticut General Statutes as "(1) Black Americans . . . (2) Hispanic Americans . . . (3) persons who have origins in the Iberian Peninsula . . . (4) Women . . . (5) Asian Pacific Americans and Pacific Islanders; or (6) American Indians . . ." An individual with a disability is also a minority business enterprise as provided by Section 4a-60g of the Connecticut General Statutes. The above definitions apply to the contract compliance requirements by virtue of Section 46a-68j-21(11) of the Contract Compliance Regulations.

The awarding agency will consider the following factors when reviewing the bidder's qualifications under the contract compliance requirements:

- (a) the bidder's success in implementing an affirmative action plan;
- (b) the bidder's success in developing an apprenticeship program complying with Sections 46a-68-1 to 46a-68-17 of the Administrative Regulations of Connecticut State Agencies, inclusive;
- (c) the bidder's promise to develop and implement a successful affirmative action plan;
- (d) the bidder's submission of employment statistics contained in the "Employment Information Form", indicating that the composition of its workforce is at or near parity when compared to the racial and sexual composition of the workforce in the relevant labor market area; and
- (e) the bidder's promise to set aside a portion of the contract for legitimate minority business enterprises. See Section 46a-68j-30(10)(E) of the Contract Compliance Regulations.

\* The Commission on Human Rights and Opportunities (CHRO) "Employment Information Form" shall be submitted to CT DAS Procurement Services on behalf of the awarding agency, the Department of Construction Services (CT DCS).



**Section 2) Non-Discrimination and other Contract Compliance Requirements**

Pursuant to CONN. GEN. STAT. § 4a-60 and §4a-60a and, the Regulations of Connecticut State Agencies Sections 46a-68j-21 to 46a-68j-43, a contractor agrees to the following:

- 1) Not to discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, sexual orientation, mental retardation, or physical disability including, but not limited to, blindness (unless it is shown that such disability prevents performance of the work involved) in the performance of a contract, in any manner prohibited by the federal and Connecticut anti-discrimination and contract compliance laws;
- 2) To undertake affirmative action which will insure that applicants with job-related qualifications are employed and that employees are treated, when employed, without regard to whether they belong to any of the groups identified in Paragraph # 1) above;
- 3) To include a statement that the contractor is an "affirmative action-equal opportunity employer", in all solicitations or advertisements for employees placed by or on behalf of the contractor;
- 4) To provide each labor union or representative of workers with which such contractor has a collective bargaining agreement and each vendor with which such contractor has a contract, a notice advising them of the contractor's commitments under CONN. GEN. STAT. § 4a-60 and §4a-60a. The notice is available by contacting the Commission on Human Rights and Opportunities (the Commission);
- 5) To post copies of the notice referred to in item 4) in conspicuous places available to employees and applicants;
- 6) To provide the Commission with such information requested by said agency, permit access to pertinent books, records, and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of CONN. GEN. STAT. § 4a-60, §4a-60a and § 46a-56 and, cooperate fully with the Commission; and,
- 7) To include the language of CONN. GEN. STAT. § 4a-60 (a) and §4a-60a (a) in every subcontract or purchase order executed to fulfill any obligation of the contract with CT DCS.

**Section 3) Affirmative Action Requirements for Certain Public Works Contracts for Construction**

Pursuant to CONN.GEN. STAT. § 46a-68c and §46a-68d and, the Regulations of Connecticut State Agencies Sections 46a-68j-21 to 46a-68j-29, the following must file an affirmative action plan with the Commission:

- 1) A successful bidder on a public works contract<sup>1</sup> with a value of \$500,000 or more. The plan must be filed within thirty (30) days after a bid has been accepted by an awarding agency but before a contract is awarded. A plan may be filed in advance of or, at the same time as a bid is submitted.
- 2) A contractor with fifty (50) or more employees who has been awarded a public works contract in excess of \$50,000 in any fiscal year. A plan must be filed within thirty (30) days of the date a contract is awarded.

The Commission must review a plan within sixty (60) days of receipt and must either approve or reject a plan. Should the Commission approve an affirmative action plan, the Commission will issue a certificate of compliance. This certificate of compliance shall be proof of a successful bidder's or a contractor's eligibility to bid or be awarded contracts for a period of two (2) years from the date of the certificate. This certificate does not excuse a successful bidder or contractor from being monitored by the Commission for implementation of its affirmative action plan or, from its reporting requirements under CONN. GEN. STAT. § 46a-68e and § 46a-68f. (Refer to Section 6) Also, the Commission may revoke the certificate if a successful bidder or contractor does not implement its affirmative action plan.

Should the Commission opt to disapprove an affirmative action plan, the Commission must notify the successful bidder or contractor in writing within ten (10) days of the disapproval. The notice will state the reason for disapproval and may provide necessary proposals to bring the plan into compliance. The successful bidder or contractor must then submit a new or amended plan, within thirty (30) days of the date the notice of disapproval is mailed by the Commission.

In addition, the Commission may conditionally approve an affirmative action plan for a successful bidder on a public works contract valued at \$500,000 or more. The Commission must notify the successful bidder in writing within ten (10) days of the conditional disapproval and state the reason for conditional approval and, may provide necessary proposals to bring the plan into compliance. The successful bidder must then submit a new or amended plan or, provide written assurances that it will amend its plan to conform to affirmative action requirements, within thirty (30) days of the date the notice is mailed by the Commission.

The awarding agency (CT DCS) will provide a successful bidder or contractor with a copy of the Commission's Affirmative Action Plan format. All sections of this Affirmative Action Plan format must be completed by the successful bidder or contractor and forwarded to the Commission. Also, the awarding agency (CT DCS) shall withhold 2% of the total contract price per month from any payment made to a contractor until such time as the contractor has developed an affirmative action plan, which has been approved by the Commission.

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<sup>1</sup>According to CONN. GEN. STAT. § 46a-68b, a "public works contract" means any agreement between any individual, firm or corporation and the state or any political subdivision of the state other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the state, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

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**Section 4) "Good Faith Efforts" to Include Minority Business Enterprises as Subcontractors**

In addition to, or in the absence of, any other subcontractor requirements included in this project, contractors are required to make "good faith efforts" to include minority business enterprises in the work of this project as subcontractors (for services and/or material suppliers). For the purpose of identifying minority business enterprises, a minority business enterprise shall be a subcontractor which has a valid certification as such from the Department of Administrative Services (DAS) and/or a subcontractor for which an affidavit has been submitted by the contractor attesting that the subcontractor named as a minority business enterprise meets the minority business enterprise criteria set out in CONN. GEN. STAT. § 4a-60(b).

"Good faith effort" means "that **degree of diligence** which a reasonable person would exercise in the performance of legal duties and obligations" and *includes*, but is not limited to, the following **factors**: the contractor's employment and subcontracting policies and practices; affirmative advertising, recruitment, training, technical assistance activities and such other reasonable activities or efforts as the Commission may recommend to ensure the participation of minority business enterprises in state projects.

**Section 5) Set-Aside Program**

This contract may be subject to the provisions the Set-Aside Program for Small Contractors found at CONN. GEN. STAT. § 4a-60g and may be awarded only to a contractor certified as a small and/or minority business enterprise by DAS. The notification as to this special provision will be found in the Invitation to Bid for this contract. The listing of eligible "Set-Aside" contractors is found on DAS' web site. (<http://das.ct.gov/cr1.aspx?page=34>) In the event that the Set-Aside Program for Small Contractors applies to this contract, the following special provisions will also apply:

**5.1 Amount of Work Required to Be Done by "Set-Aside" Contractors**

A contractor awarded a contract on a project pursuant to the provisions of CONN. GEN. STAT. § 4a-60g and Public Act 13-304, shall be required to perform not less than thirty (30) per cent of the work with his/her own forces and shall ensure that not less than fifty (50) per cent of the work be performed by contractors or subcontractors who are certified as small contractors or minority business enterprises pursuant to CONN. GEN. STAT. § 4a-60g.

The primary product/service performed by contractors working on a contract awarded under CONN. GEN. STAT. § 4a-60g must be the same as the primary product/service described for the contractors on their "Certificate of Eligibility" which is provided to them by DAS.

**5.2 Alternate Bonding Available to "Set Aside" Contractors**

In lieu of a performance, bid, labor and materials or other required bond, a contractor or subcontractor awarded a contract under CONN. GEN. STAT. § 4a-60g may provide to the awarding authority (CT DCS) and the awarding authority shall accept a "Letter of Credit". Any such "Letter of Credit" shall be in an amount equal to ten (10) per cent of the contract for any contract that is less than one hundred thousand (\$100,000) dollars, and in the amount of twenty-five (25) per cent for any contract that is one hundred thousand (\$100,000) dollars or more.

**5.3 Procedures to Follow Regarding Substitution of Named Project "Set-Aside" Subcontractors.**

The awarding authority (CT DCS) may also require the contractor to set aside a portion of the contract for subcontractors who are eligible for set aside contracts. The awarding authority shall not permit substitution of a subcontractor for one named in accordance with the provisions of CONN. GEN. STAT. § 4b-95 or substitution of a subcontractor for any designated sub-trade work bid to be performed by the contractor's own forces, except for good cause.

Pursuant to CONN. GEN. STAT. § 4b-95, the term "good cause" includes but is not limited to a subcontractor's or, where appropriate, a general contractor's:

- 1) Death or physical disability, if the listed subcontractor is an individual;
- 2) Dissolution, if a corporation or partnership;
- 3) Bankruptcy;
- 4) Inability to furnish any performance and payment bond shown on the bid form;
- 5) Inability to obtain, or loss of, a license necessary for the performance of the particular category of work;
- 6) Failure or inability to comply with a requirement of law applicable to contractors and subcontractors, or to subcontracts for construction, alteration, or repair projects;
- 7) Failure to perform his/her agreement to execute a subcontract under CONN. GEN. STAT. § 4b-96.

*Example*  
**Section 00 73 38**  
**Commission On Human Rights And Opportunities/  
Contract Compliance Regulations**

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Any general contractor who violates any provision of CONN. GEN. STAT. § 4b-95 shall be disqualified from bidding on other contracts that are subject to the provisions of Chapter 60 (Construction and Alterations of State Buildings) of the Connecticut General Statutes, for a period not to exceed twenty-four (24) months, commencing from the date on which the violation is discovered, for each violation.

**Section 6) Contract Monitoring and Reporting**

The Commission has the authority to monitor state contractors pursuant to CONN. GEN. STAT. § 46a-68e and 46a-68f and Section 46a-68j-23(3) of the Administrative Regulations of Connecticut State Agencies. In addition, under Sections 46a-68j-25(e) and 46a-68j-26 (g) of the Administrative Regulations of Connecticut State Agencies, the Commission has the authority to monitor the implementation of an affirmative action plan regarding: a) a successful bidder who has been awarded a public works contract valued at \$500,000 or more and, b) a contractor with fifty (50) or more employees who has been awarded a public works contract in excess of \$50,000 in any fiscal year.

In order to monitor the implementation of these plans, the Commission requires that the following contract monitoring reports be compiled and submitted:

- 1) Monthly Employment Utilization Report (form chro: cc-257). A contractor, on behalf of itself and all subcontractors who perform work on the project during a given month, is required to report on the work hour participation of minority male and female workers in each trade category on the project. The report must be submitted to the contract awarding agency (CT DCS) and to the Commission by the 15<sup>th</sup> day following the end of each calendar month during the term of the on-site construction work of the project.

Website page: <http://www.ct.gov/chro> >> Forms >> Contract Compliance Forms and Reports

- 2) Quarterly Small Contractor and Minority Business Enterprise Payment Status Report (form chro: cc-258). A contractor is required to report on the participation of small contractors or minority business enterprises identified to participate on the project. The report must be submitted to the contract awarding agency (CT DCS) and to the Commission by the 15<sup>th</sup> day following the end of each calendar quarter during the term of the on-site construction work of the project.

Website page: <http://www.ct.gov/chro> >> Forms >> Contract Compliance Forms and Reports

In addition, the Commission expects that a contractor will designate an Equal Opportunity/Contract Compliance Officer for its public works project who will compile the above monthly and quarterly reports, as well as, undertake the following responsibilities for implementation of its project Affirmative Action Plan (AAP):

- 1) Maintain a project Equal Employment Opportunity (EEO) file to include all records, correspondence and other documentation relate to the project AAP.
- 2) Communicate to and inform all project subcontractors, regardless of tier, and labor referral organizations (if applicable) about project equal employment and AAP commitments and performance requirements.
- 3) Participate in project job meetings to inform project subcontractors about project equal employment and AAP performance requirements.
- 4) Track the use of employment recruitment sources identified in the project AAP regarding all employment opportunities with all subcontractors on the project. Also, maintain documentation of all contacts with these recruitment sources and their responses.

The Commission will forward a copy of the monthly and quarterly report to each contractor on a public works project.

**NOTE:** Bidders and state contractors may review the full text of the before referenced Connecticut General Statutes by accessing either the State Law Library's web site (<http://www.cslib.org/psaindex.htm>) or, the State Legislatures' web site (<http://www.cga.ct.gov>).

The full text of the Regulations of Connecticut State Agencies Sections 46a-68j-21 through 46a-68j-43 may be reviewed by accessing the Commission's web site: (<http://www.ct.gov/chro/cwp/view.asp?a=2525&Q=315900&chroPNavCtr=1#45679>) In the alternative, bidders or state contractors may request a copy of these state statutes and regulations by contacting the Commission at (860) 541-3400 (in Hartford) or 1 (800) 477-5737.

*Example*  
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Commission on Human Rights and Opportunities Contract Compliance Unit 25 Sigourney Street Hartford, CT 06106				1. MONTHLY EMPLOYMENT UTILIZATION REPORT (FORM chro cc-257)				PROJECT AREA (MSA):  2. EMPLOYERS FEIN NO. _____				3. PROJECT AAP GOALS MINORITY: _____ FEMALE: _____				4. REPORTING PERIOD FROM: _____ TO: _____							
GENERAL CONTRACTOR: PROJECT NAME: CONTRACT NUMBER:								NAME AND LOCATION OF CONTRACTOR (submitting report):								STATE AWARDING AGENCY:							
5. CONSTRUCTION TRADE (please identify)		6. WORK HOURS OF TRADE WORKERS EMPLOYED ON PROJECT		6a. TOTAL HOURS BY TRADE		6b. BLACK (Not of Hispanic Origin)		6c. HISPANIC		6d. ASIAN OR PACIFIC ISLANDERS		6e. AMERICAN INDIAN OR ALASKAN NATIVE		7. MINORITY PERCENT		8. FEMALE PERCENT		9. TOTAL NUMBER OF EMPLOYEES		10. TOTAL NUMBER OF MINORITY EMPLOYEES			
				M F		M F		M F		M F		M F						M F		M F			
		Journey Worker																					
		Apprentice																					
		Trainee																					
		SUB-TOTAL																					
		Journey Worker																					
		Apprentice																					
		Trainee																					
		SUB-TOTAL																					
		Journey Worker																					
		Apprentice																					
		Trainee																					
		SUB-TOTAL																					
		Journey Worker																					
		Apprentice																					
		Trainee																					
		SUB-TOTAL																					
		TOTAL JOURNEY WORKERS																					
		TOTAL APPRENTICES																					
		TOTAL TRAINEES																					
		GRAND TOTAL																					
11. COMPANY OFFICIALS SIGNATURE, PRINTED NAME, AND PRINTED TITLE								12. TELEPHONE NUMBER (including area code)								13. DATE SIGNED				PAGE ____ OF ____			
<input type="checkbox"/> Did not perform work on this project for this month (Please place an "X" in the box if your company did not perform work on this project for this month only.)																							

Form CHRO 257

*Example*  
**Section 00 73 38**  
**Commission On Human Rights And Opportunities/  
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Commission on Human Rights and Opportunities Contract Compliance Unit 25 Sigourney Street Hartford, CT 06106				1. MONTHLY EMPLOYMENT UTILIZATION REPORT (FORM CHRO cc-257A)				PROJECT AREA (MSA): 2. EMPLOYER/ FEIN NO.				3. PROJECT AAP GOALS MINORITY: _____ FEMALE: _____				4. REPORTING PERIOD FROM: _____ TO: _____															
GENERAL CONTRACTOR: PROJECT NAME: CONTRACT NUMBER:								NAME AND LOCATION OF CONTRACTOR (submitting report):								STATE AWARDING AGENCY:															
5. ON SITE PERSONNEL (OTHER THAN TRADE WORKERS) <i>(please identify specific job title)</i>		6. WORK HOURS OF WORKERS (OTHER THAN TRADE WORKERS) EMPLOYED ON PROJECT																9. TOTAL NUMBER OF EMPLOYEES		10. TOTAL NUMBER OF MINORITY EMPLOYEES											
		6a. TOTAL HOURS BY TRADE		6b. BLACK (Not of Hispanic Origin)		6c. HISPANIC		6d. ASIAN OR PACIFIC ISLANDERS		6e. AMERICAN INDIAN OR ALASKAN NATIVE		7. MINORITY PERCENT		8. FEMALE PERCENT																	
		M F		M F		M F		M F		M F		M F		M F		M F		M F													
GRAND TOTAL WORKERS																															
11. COMPANY OFFICIALS SIGNATURE, PRINTED NAME, AND PRINTED TITLE								12. TELEPHONE NUMBER (including area code)								13. DATE SIGNED								PAGE _____ OF _____							
<input type="checkbox"/> Did not perform work on this project for this month (Please place an "X" in the box if your company did not perform work on this project for this month only.)																															

Form CHRO 257a

*Example*  
**Section 00 73 38**  
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QUARTERLY SMALL CONTRACTOR AND  
MINORITY BUSINESS ENTERPRISE  
PAYMENT STATUS REPORT

Quarter Ending \_\_\_\_\_

- 1) General Contractor Name
- 2) State Contract Number
- 3) State Contract Award Agency
- 4) Project Name                      5) Estimated Completion Date \_\_\_\_\_
- 6) Project Value                      7) Percent Completed to Date \_\_\_\_\_  
(Indicate & attach all Change Orders)
- 8) Listing of all small contractors and minority business enterprise contractors on the project to comply with contractual small business set aside provisions:

Company Name	Total Contract Amount (Indicate & attach all Change Orders)	Total Payment this Quarter	Total Payment to Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

\_\_\_\_\_  
Signature of Company Official

\_\_\_\_\_  
Date of Report

\_\_\_\_\_  
Printed Name & Title of Person Signing

Original to: 1) CHRO, 25 Sigourney Street, Hartford, CT 06106  
Copies to: 2) Awarding Agency  
3) Contractor's Company File

Form CHRO 258

**End**  
**Section 00 73 38**

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***Option 2***

***Construction Manager At Risk (CMR):***



## **APPENDIX I**

### **Administrative and Statutory Requirements**

For the purposes of this Appendix I, the word "contractor" is substituted for and has the same meaning and effect as if it read, Construction Manager at Risk ("CMR"). References to "contract" shall mean this CMR Agreement.

#### **1. Nondiscrimination And Affirmative Action Provisions:**

##### **A. Non-Discrimination**

(a) For purposes of this Section, the following terms are defined as follows:

- i. "Commission" means the Commission on Human Rights and Opportunities;
- ii. "Contract" and "contract" include any extension or modification of the Contract or contract;
- iii. "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
- iv. "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.
- v. "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
- vi. "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
- vii. "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced;
- viii. "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
- ix. "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
- x. "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

(b) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.

(c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

(d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.

(e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

(f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.

**Administrative and Statutory Requirements**

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(g) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.

(h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

**2. Executive Orders:**

This contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the contract as if they had been fully set forth in it. The contract may also be subject to the applicable parts of Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions. If Executive Orders 7C and 14 are applicable, they are deemed to be incorporated into and are made a part of the contract as if they had been fully set forth in it. At the contractor's request, the Department shall provide a copy of these orders to the contractor.

- 2.1 The contractor agrees to abide by such Executive Orders.
- 2.2 The State Contracting Standards Board may review this contract and recommend termination of the contract for a violation of the State Ethics Code (Chapter 10 of the General Statutes) or Section 4a-100 of the General Statutes, or wanton or reckless disregard of any state contracting and procurement process by any person substantially involved in such contract or state contracting agency.
- 2.3 This contract may be cancelled, terminated, or suspended by DAS or the State Labor Commissioner for violation of or noncompliance with Executive Orders No. Three or Seventeen or any State or federal law concerning nondiscrimination, notwithstanding that the State Labor Commissioner is not party to this contract. The State Labor Commissioner shall have continuing jurisdiction regarding contract performance concerning nondiscrimination and listing all employment openings with the Connecticut State Employment Service until the contract is completed or until the contract is terminated prior to completion.
- 2.4 The contractor agrees, as part consideration hereof, that this contract is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. Three, and that the contractor will not discriminate in its employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.

**Administrative and Statutory Requirements**

Page 4 of 10

- 2.5 This contract may be cancelled, terminated, or suspended by DAS or the State for violation of or noncompliance with Executive Order Sixteen. In addition, the contractor agrees to include a copy of Executive Order Sixteen, and the requirement to comply with said order, in all contracts with its contractors, subcontractors, consultants, subconsultants, and vendors.

**3. Sexual Harassment:**

This contract is subject to the provisions of the Department of Administrative Services' Anti-Harassment Policy ("Policy") and, as such, the contract may be cancelled, terminated, or suspended by the State in the event that the contractor, its employees, contractors, subcontractors, consultants, subconsultants, or vendors engage in behavior prohibited by the provisions of the Policy (a copy of the Policy is available on the DAS website). The contractor agrees to include a copy of the Policy, and the requirement to prevent behavior as defined in such Policy, in all contracts with its contractors, subcontractors, consultants, subconsultants, and vendors.

**4. Summary of State Ethics Laws:**

Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes is incorporated by reference into and made a part of the Contract as if the summary had been fully set forth in the Contract.

**5. Whistleblowing**

This contract may be subject to the provisions of Section 4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the CMR takes or threatens to take any personnel action against any employee of the CMR in retaliation for such employee's disclosure of information to any employee of the contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, the CMR shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the CMR.

**6. Set-Aside Program**

CMR shall award not less than 25% of the cost of construction to Subcontractors who are certified and eligible to participate under the State of Connecticut Set Aside Program for small, minority and women owned business enterprises including 6.25% that must be awarded to certified and eligible minority/women owned enterprises, in accordance with Connecticut General Statutes Section 4a-60g through 4a-60j. This requirement must be met even if CMR is certified and eligible to participate in the Small Business Set-Aside Program. CMR shall draft and submit for approval an affirmative action plan in accordance with the rules and regulations of the Connecticut Human Rights and Opportunities Commission ("CHRO"). The affirmative action plan must be approved by the CHRO as a condition precedent to approval of the Guaranteed Maximum Price and the GMP Amendment to this Agreement.

**7. Confidentiality of Documents**

The CMR agrees on behalf of the CMR and the CMR's principals, employees, agents, heirs, successors and assigns that they shall only utilize drawings, specifications, maps, reports, records, or other documents to the extent necessary for the performance of the CMR's work and duties under this Agreement. This limitation on use applies to those items produced by the CMR, as well as to those items received by the CMR from the Owner or others in connection with the CMR's work and duties under this Agreement.

The CMR further agrees that said drawings, specifications, maps, reports, records, and other documents may not be released to any other entity or person except for the sole purpose of the Work described in this Agreement. No other disclosure shall be permitted without the prior written consent of the Owner.

The CMR further agrees that each of its subcontracts and any relevant sub-subcontracts, as appropriate shall contain the following provision:

Any and all drawings, specifications, maps, reports, records or other documents associated with the contract Work shall only be utilized to the extent necessary for the performance of the Work and duties under this contract. Said drawings, specifications, maps, reports, records and other documents may not be released to any other entity or

**Administrative and Statutory Requirements**

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person except for the sole purpose of the Work described in this contract. No other disclosure shall be permitted without the prior written consent of the State of Connecticut Department of Administrative Services, Division of Construction Services (Owner). When any such drawings, specifications, maps, reports, records or other documents are no longer needed, they shall be destroyed.

**8. Annual Certification**

If the aggregate value of this contract is \$50,000.00 or more, including all amendments and/or commission letters, then the CMR shall annually submit electronically, on or within two (2) weeks of the anniversary date of the execution of this contract, a completed Gift and Campaign Contribution Certification and notify the DCS Legal Unit that it has been uploaded. Said certification shall be uploaded on the Department of Administrative Services website. For the purposes of this article, the execution date of the contract shall be the date the Commissioner of DAS signs the contract.

**9. Campaign Contribution Restriction**

For all State contracts, defined in Conn. Gen. Stat. §9-612(g)(1) as having a value in a calendar year of \$50,000 or more, or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this contract expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice, as set forth in "Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations," attached as "Attachment."

**10. Construction Safety and Health Course**

Pursuant to the requirements of Section 31-53b of the Connecticut General Statutes, as revised, the CMR shall furnish proof to the Labor Commissioner at such time as the weekly certified payroll form is completed for the first week each person begins work on such project, that any such person performing manual labor on the Project, pursuant to this Agreement, has completed a course of at least ten (10) hours in duration in construction safety and health approved by the federal Occupational Safety and Health Administration or, in the case of telecommunications employees, have completed at least ten (10) hours of training in accordance with 29 CFR 1910-268. Any person required to complete such course or program shall be subject to removal from the worksite if the person does not provide documentation of having completed such course or program by the fifteenth day after the date the person is found to be in noncompliance. The Labor Commissioner shall enforce this provision.

**11. Freedom of Information Act**

The Owner is a "public agency" for purposes of the Connecticut Freedom of Information Act, Sections 1-200 to 1-241 of the General Statutes, as amended (the "FOIA"). Information relating to the CMR, its Subcontractors and their affairs received or maintained by the Owner may constitute "public records or files" for purposes of the FOIA subject to public access and disclosure in the manner provided in the FOIA, unless a specific exemption from the public access and disclosure requirements of the FOIA is available in connection with particular records or files. Accordingly, the Owner is relieved from any confidentiality obligations under this Agreement that would be in conflict with its obligations under the FOIA.

**12. State's Rights of Inspection, Audit and Collection; Maintenance of Records**

- (a) All services performed by and material supplied by the Contractor under this contract shall be subject to the inspection and approval of the State at all times, and Contractor shall furnish all information concerning such material and services as may be requested by the State.
- (b) The Contractor shall maintain, and shall require each of its subcontractors hereunder to maintain, accurate and complete records, books of account and other documents that delineate the nature and extent of the State's, Contractor's, and, in the case of each subcontract, the applicable subcontractor's, performance hereunder. The Contractor shall maintain all such documentation and any and all other of its records (whether stored in electronic or other form) that in any way pertain or relate to this contract and/or the actual or alleged performance and/or lack of performance by any party hereunder (individually and collectively, "Records") at the Contractor's address provided on the first page of this contract or such other location as is approved in writing in advance by the State.

**Administrative and Statutory Requirements**

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- (c) The Contractor agrees to make all of its Records available for inspection and/or examination, and copying, by the State's authorized representatives during reasonable hours. The State and its representatives also shall have the right, at reasonable hours, to inspect and examine all of the part(s) of the Contractor's and its subcontractors' plant(s) and/or place(s) of the businesses which, in any way, are related to, or involved in, the performance of this contract and/or any subcontract to ensure compliance with the same. Except in the case of suspected fraud or other abuse or in the event of an emergency, the State will give the Contractor at least twenty-four (24) hours notice of any intended inspections or examinations.
- (d) At the State's request, the Contractor shall provide the State with hard copies of or electronic media containing any data or information in the possession or control of the Contractor which pertains to the State's business or this contract.
- (e) The Contractor agrees that it will keep and preserve or cause to be kept and preserved all of its Records until three (3) years after the latter of (i) final payment under this contract, or (ii) the expiration or earlier termination of this contract, as the same may be extended or renewed, and any holdover period.
- (f) The Contractor also agrees that it will require each subcontractor under this contract to maintain all of its Records until three (3) years after the expiration or earlier termination of said subcontract or other agreement, as the same may be renewed or extended.
- (g) If any litigation, claim or audit is started before the expiration of said three (3) year periods, such records shall be (and shall be required to be) retained until all litigation, claims or audit findings have been resolved.
- (h) The Contractor shall incorporate the provisions of this Section, including this subsection (h), verbatim into any contract or other agreement it enters into with any subcontractor under this contract.

**13. Disclosure of Records**

This Agreement may be subject to the provisions of Section 1-218 of the Connecticut General Statutes, as revised. In accordance with this statute, each contract in excess of Two Million Five Hundred Thousand Dollars between a public agency and an entity or person for the performance of a governmental function shall (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (b) indicate that such records and files are subject to the Freedom of Information Act and may be disclosed by the public agency pursuant to the Freedom of Information Act. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with the Freedom of Information Act. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of Sections 1-205 and 1-206 of the Connecticut General Statutes as revised.

**14. Forum and Choice of Law**

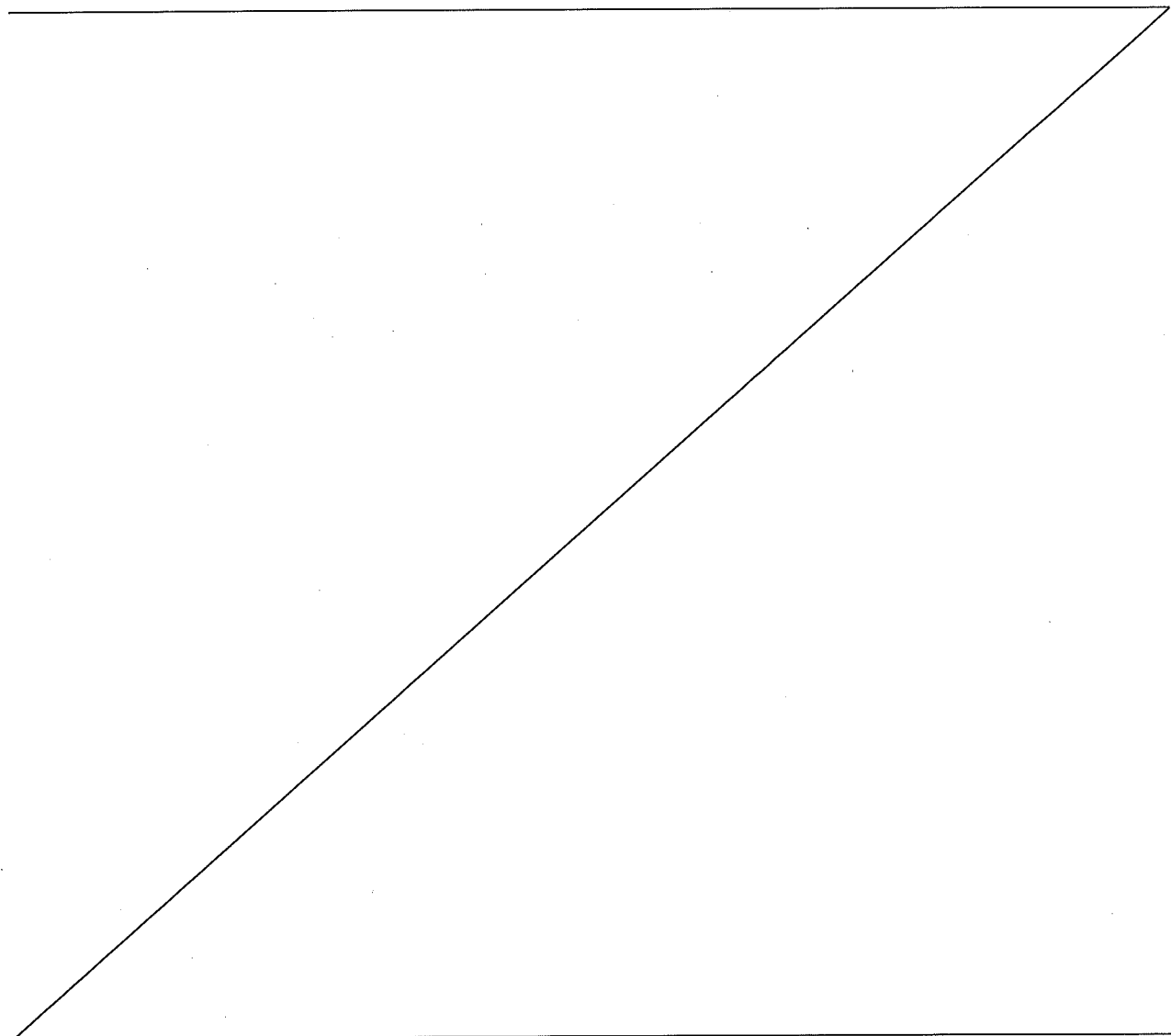
The Parties deem the Contract to have been made in the City of Hartford, State of Connecticut. Both parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

**15. Sovereign Immunity**

The parties acknowledge and agree that nothing in the Solicitation or the Contract shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this section conflicts with any other section, this section shall govern.

**16. Indemnification**

The CMR shall indemnify and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising directly or indirectly in connection with the contract, concerning the negligent acts of commission or omission (collectively, the "Acts") of the CMR or CMR Parties, and (2) liabilities, damages, losses, costs and expenses, including but not limited to attorneys' and other professionals' fees, arising directly or indirectly in connection with Claims, Acts or the contract, to the extent of the CMR's or CMR Parties' negligence. The CMR's obligations under this section to indemnify and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the CMR's bid, proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the performance.



## ATTACHMENT

## CONNECTICUT STATE ELECTIONS ENFORCEMENT COMMISSION

Rev. 1/11

**NOTICE TO EXECUTIVE BRANCH STATE CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS OF CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS**

This notice is provided under the authority of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined below).

**Campaign Contribution and Solicitation Limitations**

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor*, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall **knowingly solicit** contributions from the state contractor's or prospective state contractor's employees or from a *subcontractor or principals of the subcontractor* on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

**Duty to Inform**

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

**Penalties for Violations**

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

**Civil penalties**—Up to \$2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to \$2,000 or twice the amount of the prohibited contributions made by their principals.

**Criminal penalties**—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than \$5,000 in fines, or both.



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**Contract Consequences**

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may result in the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information may be found on the website of the State Elections Enforcement Commission, [www.ct.gov/seec](http://www.ct.gov/seec). Click on the link to "Lobbyist/Contractor Limitations."

**Definitions:**

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including,

**Administrative and Statutory Requirements**

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but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

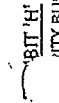
"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

"Subcontractor" means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty first of the year in which the subcontract terminates. "Subcontractor" does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a subcontractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has managerial or discretionary responsibilities with respect to a subcontract with a state contractor, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.





## CITY BUS

April 9, 2014

EMMETT O'BRIEN TECH

Ansonia, Connecticut

Project No. B1-RT-844-CMR

Bid Package	Description	Subcontractor	Subcontract Value	2nd Tier Subcontractor	S/M/WBE	Non-Set Aside Value	SBE Value	MBE Value	WBE Value	Comments
1.1	FINAL CLEANING	Advantage Cleaning Branch of CT LLC	\$88,880		MBE					
2.0	DEMOLITION WORK & HAZARDOUS A	Waterbury Masonry, Inc	\$3,636,363		SBE		\$3,636,363	\$88,880		
3.0	CONCRETE WORK	Aercon Masonry, Inc	\$1,065,000		WBE				\$1,065,000	
4.0	MASONRY & PRECAST	Dalish Steel, Inc	\$2,971,000		WBE	\$2,971,000				
5.0	STRUCTURAL STEEL & METAL DECK	General Welding & Fabrication	\$1,844,000		WBE	\$1,844,000				
5.1	METAL FABRICATIONS	Corn Acoustics, Inc	\$508,000						\$508,000	
6.0	GENERAL TRADES	Northeast Interior Systems	\$3,831,020			\$3,831,020				
6.1	ARCHITECTURAL WOODWORK	Northeast Interior Systems	\$373,600			\$373,600				
6.2	LABORATORY CASEWORK	The Imparsi Company	\$644,500			\$644,500				
7.0	MEMBRANE ROOFING SYSTEM	Shedtech Building Products	\$2,262,000			\$2,262,000				
7.1	METAL WALL PANELS	FUS, Inc	\$1,497,000		MBE					
7.2	PRESTOPPING	Avera Glass, Inc	\$97,500					\$97,500		
8.0	GLASS & GLAZING	Builders Hardware	\$1,970,000			\$1,970,000				
8.1	DOORS, FRAMES & HARDWARE	Wilco Siter, Inc	\$540,000		SBE	\$540,000				
8.2	SPECIAL DOORS	Joseph Cohn & Son	\$176,468				\$176,468			
9.0	CERAMIC TILE & QUARRY TILE	Spectrum Floor	\$679,324		SBE					
9.1	TERRAZZO	R&B Ceramic Tile	\$342,419		SBE		\$342,419			
9.2	WOOD FLOORING	Maskozie Painting	\$265,981		SBE		\$265,981			
9.3	ATHLETIC & RESILIENT FLOORS	Acoustics, Inc	\$1,201,000		WBE				\$1,201,000	
9.4	SPECIAL FLOORING	Maskozie Painting	\$142,240		WBE				\$142,240	
9.5	ACOUSTICAL CEILING	CT Carpentry	\$93,600		SBE		\$93,600			
9.6	PAINTING	TT builders	\$63,480		WBE				\$63,480	
10.0	SIGNAGE	The Warehouse Store Fixture	\$243,419		SBE		\$243,419			
10.1	TOILET PARTITIONS & ACCESSORIES	BY OWNER	\$31,895		SBE		\$31,895			
10.2	LOCKERS & BENCHES	CT Carpentry	\$89,640		WBE	\$89,640				
11.0	FOOD SERVICE EQUIPMENT	K&M Fire Protection	\$0		WBE				\$0	
11.1	INDUSTRIAL SHOP EQUIPMENT	Enterprise Plumbing & Heating	\$210,000		WBE				\$210,000	
11.2	COSMETOLOGY EQUIPMENT	Custom Electric	\$94,200		WBE				\$94,200	
12.0	WINDOW TREATMENT	Electric Power Solutions	\$1,455,271		SBE	\$1,455,271				
13.0	TEMPORARY MODULAR CLASSROOM	Waters Construction	\$795,500		SBE		\$795,500			
21.0	FIRE PROTECTION SYSTEM	Atlas Residential & Commercial	\$172,900,000		SBE		\$172,900,000			
22.0	PLUMBING & HVAC	Glen Terrace Landscaping	\$5,000,000		WBE		\$5,000,000			
26.0	ELECTRICAL	Mather Corp	\$317,000		SBE		\$317,000			
26.1	SITE LIGHTING		\$4,080,000			\$4,080,000		\$227,000		
31.0	SITE WORK		\$116,522		SBE		\$116,522			
31.1	FENCES & GATES		\$179,200		WBE				\$179,200	
31.2	LANDSCAPING		\$1,399,000		SBE		\$1,399,000			
31.3	FORD ST. ATHLETIC FIELDS									
<b>Subcontractor Values:</b>			<b>\$5,438,536</b>				<b>25,838,581</b>	<b>403,380</b>	<b>4,144,920</b>	
						<b>30,386,861</b>	<b>47%</b>	<b>0.73%</b>	<b>7.48%</b>	
						<b>S/M/WBE</b>	<b>SBE</b>	<b>WBE</b>	<b>WBE</b>	

## Exhibit H

A		B	C	D	E	F	G	H	I			K
FIP CONSTRUCTION		SCSU NW ACADEMIC LABORATORY Project Units-Sub	Bid Value	Subcontractor	Sub Type	Set Aside Plan Required/ NON-SET ASIDE MAJOR SUBS	Set Aside Package WIFE	Set Aside Package MIE	Set Aside Package WIFE/MIE Total	Set Aside Package WIFE/MIE Total	Set Aside Package WIFE/MIE Total	Set Aside Package WIFE/MIE Total
1	1.01 *	Final Cleaning	\$0	TBD					0			
2	1.02 *	Construction Cleaning / Refuse Removal	\$406,000	CT Carpentry	WBE		406,000		406,000			
3	2.01	Selective Demolition	\$21,000	Standard Demolition								
4	3.01	Building Concrete	\$3,592,000	SJE		Yes				\$3,592,000		\$359,200
5	4.01	Exterior Masonry, Cast Stone, Precast	\$1,664,350	Casuso		Yes						
6	4.02 *	Interior Masonry	\$483,000	Lombardo	WBE		483,000		483,000			
7	5.01	Structural Steel, Joists, Decking	\$2,982,000	Schenck Steel		Yes				\$745,500		\$149,100
8	5.02	Metal Fabrications excluding Egress Stairs	\$1,283,200	Probron		Yes				\$1,283,200		\$1,283,200
9	5.03 *	Egress Metal Stairs & Railings	\$195,840	Erection & Welding	MIE			195,840	195,840			
10	6.01	Interior Architectural Woodwork	\$311,629	CT Carpentry						\$311,629		\$311,629
11	7.01	Building Waterproofing	\$343,195	Armand		Yes				\$85,799		\$21,450
12	7.02	Metal Wall Panels	\$1,185,000	APG		Yes				\$519,030		\$8,888
13	7.03	Thermoplastic Roofing & Roof Accessories	\$386,208	Imperial		Yes				\$96,552		\$24,138
14	7.04	Sheetmetal Roofing	\$711,000	Cold Seal		Yes				\$711,000		\$711,000
15	7.05	Applied Fireproofing	\$161,300	H. Carr						\$40,325		\$10,081
16	7.06	Fire rating/Fire stopping	\$120,000	TBD								
17	8.01	Curtainwall, Entrances, Skylights, Sun Control Devices	\$2,290,845	APG		Yes				\$72,162		\$27,948
18	9.01	Drywall, General Trades, Doors, Frames & Hardware	\$3,938,410	Enfield Builders		Yes				\$984,603		\$246,151
19	9.02	Ceramic Tile & Stone Flooring	\$252,400	Higgins						\$252,400		\$252,400
20	9.03	Acoustic Ceilings & Sound Panels	\$372,200	H. Carr		Yes				\$93,050		\$23,263
21	9.04	Resilient Flooring, Carpet & Entrance Mats	\$323,000	Commercial Flooring		Yes				\$80,750		\$20,188
22	9.05	Cementitious Toppings	\$141,912	CT Carpentry						\$141,912		\$141,912
23	9.06	Resinous Flooring	\$15,800	MacKenzie						\$15,800		\$15,800
24	9.07 *	Painting, Wall Covering, Floor Sealer	\$324,343	MacKenzie	WBE		324,343		324,343			
25	12.01	Laboratory Casework, Fume Hoods & Shelving, Cabinets, Tables	\$1,297,251	LFI		Yes				\$194,588		\$194,588
26	12.02	Laboratory Equipment & Sterilizers	\$0	TBD								
27	13.01	Controlled Environmental Rooms & Growth Chambers	\$51,250	Enviroair								
28	13.02	Aquarium System	\$268,187	Living Color								
29	14.01	Electric Traction Elevators	\$359,320	Kuno/Thyssen								
30	21.01	Fire protection	\$576,380	Smith		Yes				\$103,748		\$40,347
31	22.01	Plumbing	\$3,254,000	Superior		Yes				\$813,500		\$203,375
32	23.01	HVAC	\$8,572,000	Ferrusson		Yes				\$2,143,000		\$535,750

[illegible]

BID PACKAGES	DESCRIPTION	BID VALUE
2	Sitework	\$ 1,200,000.00
2A	Landscaping DEFERRED	
2C	Site Concrete	\$ 289,500.00
3	Concrete	\$ 1,041,000.00
4	Masonry	\$ 1,043,000.00
5	Steel (REBID)	\$ 2,150,000.00
5A	Misc Metals	\$ 489,000.00
6	Millwork and Finish Carpentry	\$ 592,497.00
7	Roofing and Siding	\$ 658,000.00
7B	Cementitious Fireproofing	\$ 149,000.00
8	Glass and Glazing (REBID)	\$ 3,034,829.00
8A	Steel Doors/Frames and Wood Door & Hardware	\$ 194,800.00
8B	Metal Paneling (NEW PACKAGE FOR REBID)	\$ 423,774.00
9	Gypsum Board Assemblies	\$ 1,984,000.00
9A	Acoustical Ceilings	\$ 476,500.00
9B	Painting	\$ 118,958.00
9C	Tile, Resilient	\$ 272,825.00
9D	Poured Terrazzo	\$ 393,037.00
10	Toilet Partitions & Accessories	\$ 32,200.00
10A	Signage	\$ 74,950.00
12	Roller Shades	\$ 80,191.00
13	Fire Protection	\$ 403,240.00
13A	Security	\$ 124,122.64
13B	Fire Alarm	\$ 245,156.00
13C	Communications Cabling	\$ 136,518.00
14	Elevators	\$ 413,175.00
15	Plumbing	\$ 773,000.00
15A	HVAC	\$ 2,487,000.00
15B	HVAC Instrumentation & Controls	\$ 417,460.00
16	Electrical	\$ 739,000.00
17	Final Building Cleaning	\$ 69,250.00

SUBTOTAL SUBCONTRACTORS \$ 20,505,982.64

**Engineering:**

Skanska Preconstruction Services  
Skanska WAO No.01  
Architect Mechanical / Electrical Engineering  
Other Consultants

NIC  
NIC  
By Owner  
NIC

Total Engineering Costs: \$

**New Equipment**

Incl. w/ Bldg Cost

**Installation / Relocation of Equipment**

By Owner

**Furniture**

By Owner

**Allowances**

Temporary heat  
Temporary Electric  
Equipment Filter Changes  
Exterior Skin Consultant  
Bld Advertisement / Addenda Costs  
Replacement of Defective Stored Materials  
Lead Abatement (1,635 connections, 1.5hr ea. @ \$100/hr)

Included In GC/GR  
Included In GC/GR  
\$ 15,000.00  
\$ 15,000.00  
\$ 10,000.00  
\$ 200,000.00  
\$ 250,000.00

Total Allowances: \$ 490,000.00

# SKANSKA

Southern CT State University  
Buley Library Renovations  
BI-RS-225B CMR

## COST SUMMARY

5/20/2013

### Other Costs:

Telephone/Data Equipment/Installation  
Security Equipment / Installation  
Validation  
Building Permits  
Subcontractor Bonding  
Skanska Bonding, .87%  
Escalation, 3% per annum  
LEED

By Owner  
By Owner  
By Owner  
By Owner  
In Trades  
\$ 217,500.00  
In Trades  
NIC

Total Other Costs: \$ 217,500.00

### Associated Costs:

Move Occupants Personal and Portable Belonging  
Skanska WAO No.01

By Owner  
\$ 121,786.00

Total Associated Costs: \$ 121,786.00

### Contingencies

Owner Contingency  
CM Contingency, 4%  
Reduce Contingency from 4% to 3%  
Reduce Contingency for VE Adjustments (see attached, Section 13)  
Design / Estimating Contingency, 3%

NIC  
\$ 962,960.00  
\$ (240,740.00)  
\$ (408,304.00)  
NIC

Total Contingencies: \$ 313,916.00

### CM Services & Fees

Construction Management Services  
GC Credit- Item 3.2.1: Traller cleaning (BP-17)  
GC Credit- Item 3.2.2: Final Building cleaning (BP-17)  
GC Credit- Item 5.24: Temporary Weather Protection (Window Infill / Building Wrap) (BP-09)  
GC Credit- Item 5.25: Temporary Weather Protection (Masonry Scaffolding / Heat) (BP-09)  
GC Credit- Item 5.26: Temporary Railings / Floor opening protection (BP-09)  
GC Credit- Item 5.27: Temporary Rubbish Shute / Loading Areas / Lull Rental (BP-09)  
GC Credit- Item 5.28: Temporary Fencing / Gates (BP-02)  
Construction Management Fees, 2.75%  
Construction Management Fees on \$1.7M Value of Stored Materials

\$ 2,265,180.00  
\$ (10,000.00)  
\$ (40,000.00)  
\$ (125,000.00)  
\$ (65,000.00)  
\$ (10,000.00)  
\$ (10,000.00)  
\$ (10,000.00)  
\$ 657,922.33  
\$ 46,750.00

Total CM Services & Fees: \$ 2,699,852.33

### Insurance:

Builders Risk Insurance, .3%  
General Liability Insurance, 1.25%  
Insurance required to Indemnify Architect

\$ 70,480.15  
\$ 284,639.53  
N.I.C.

Total Insurance: \$ 355,119.68

TOTAL GMP: \$ 24,704,157



Bid Package Number	Company Name	ANTICIPATED SBE & MWBE RESULTS				
		Total	SBE		MWBE	
			PRIME	SUB-TIER	PRIME	SUB-TIER
2	Sitework (SBE)	\$ 1,200,000.00	\$ 1,140,000.00			
02A	Landscaping (DB/BE/BE)			25%		30%
02C	Site Concrete (WBE)					5%
3	Concrete (SBE)	\$ 289,500.00			\$ 289,500.00	\$ 89,000.00
4	Masonry	\$ 1,041,000.00	\$ 988,950.00			
5	Steel	\$ 1,043,000.00				
05A	Misc Metals (MBE)	\$ 2,150,000.00		26075000		52090000
6	Millwork and Finish Carpentry	\$ 489,000.00				404,300.00
7	Roofing and Siding	\$ 592,497.00				
07B	Cementitious Fireproofing (S/WBE)	\$ 658,000.00		14812425		5924970
8	Glass and Glazing	\$ 149,000.00	\$ 141,550.00			65,800.00
08A	Steel Doors, Frames and Wood Door & Hardware--Supply	\$ 3,034,829.00				745,000.00
08B	Metal Paneling	\$ 194,800.00				
9	Drywall Carpentry	\$ 423,774.00				
09A	Acoustical Ceilings (SBE)	\$ 1,984,000.00		49600000		
09B	Painting (MWBE)	\$ 476,500.00	\$ 452,675.00			198,400.00
09C	Porcelain / Carpet / Tile (SBE)	\$ 113,958.00				23,825.00
09D	Poured Terrazzo (SBE)	\$ 272,825.00	\$ 259,183.75		\$ 118,958.00	
10	Toilet Partitions & Accessories (SBE)	\$ 393,037.00	\$ 373,385.15			43,641.25
010A	Signage	\$ 32,200.00	\$ 32,200.00			19,651.85
12	Roller Shades (WBE)	\$ 74,950.00				
13	Fire Protection	\$ 80,191.00			\$ 80,191.00	
013A	Intrusion Detection, Security Access, Video Surveillance (MWBE)	\$ 403,240.00		10081000		
013B	Fire Alarm (University Single Source)	\$ 124,122.64			\$ 124,122.64	40,324.00
013C	Structured Cabling (MWBE)	\$ 245,156.00				
14	Elevators	\$ 136,518.00			\$ 136,518.00	
15	Plumbing (WBE)	\$ 413,175.00				
015A	HVAC	\$ 773,000.00				
015B	HVAC Instrumentation & Controls (University Single Source)	\$ 2,487,000.00		62175000	\$ 773,000.00	
16	Electrical	\$ 417,460.00				248,700.00
17	Final Building Cleaning (MWBE)	\$ 739,000.00		48495000		73,900.00
		\$ 69,250.00			\$ 69,250.00	

BUDGET TOTAL (DIVISION 2 THRU 16): \$ 20,505,982.64

25% SBE REQUIREMENT: \$ 3,844,871.75  
 6.25% MWBE REQUIREMENT: \$ 1,281,623.92  
 SBE / MWBE REQUIREMENTS: \$ 3,844,871.75 18.75% \$ 1,281,623.92 6.25%

PRIME SBE / MWBE PROJECTIONS:  
 PRIME SBE / MWBE COMPARISON [ OVER / ( UNDER ) ]:

\$ 3,387,943.90  
 \$ (456,927.85) \$ 2,080,539.64  
 \$ 798,915.73

SBE (SUB-TIER CONTRACT):  
 MWBE (SUB-TIER CONTRACT):  
 SUB-TIER SBE/MWBE PROJECTIONS:

\$ 1,976,684.25  
 \$ 967,291.80 \$ 967,291.80

PRIME + SUB-TIER SBE / MWBE PROJECTIONS:  
 PRIME + SUB-TIER COMPARISON [ OVER / ( UNDER ) ]:

\$ 5,364,628.15  
 \$ 1,519,756.41 \$ 3,047,831.44  
 \$ 1,766,207.53

[illegible]

Eastern Connecticut State University													
Bid Matrix - Rev 1													
Bid Package	May 7 Receipt	May 29 Receipt	Budget	May 7 Bid Amount	May 29 Bid Amount	Sub Bid Package Position	DQ	Delta	Apparent Low Number	Apparent Low Delta	SBE Incomplete no bid bond	SBE Value	M&E Value
Bidders Descriptive	Y		\$276,071	\$276,071	\$704,825			\$428,754					
Mackenzie													
11 Composite Metal Panels (SBE Set Aside)	Y	Y	\$308,396	\$308,396	\$454,186	\$369,389	1	\$60,953	\$569,389	\$60,953	18.75	6.25	69,260
Stucco (Initial)													
12 Roofing													
Allied Restoration			\$1,309,544										
Greenwood Industries		Y	\$1,309,544										
Harford Restoration		Y	\$1,309,544										
Imperial Roofing	Y	Y	\$1,309,544										
JD River	Y	Y	\$1,309,544	\$1,071,395	\$1,255,000		2	\$25,456					
Silicon Roofing	Y	Y	\$1,309,544	\$1,835,000	\$1,635,000		5	\$525,456					
Titan Roofing	Y	Y	\$1,309,544	\$1,385,000	\$1,548,000		3	\$53,456					
	Y	Y	\$1,309,544	\$1,396,000	\$1,578,796		4	\$264,252					
13 Spray Fireproofing and Acoustic (SBE Set Aside)													
Brand Services			\$481,458										
H Carr & Sons			\$491,458										
Mackenzie Services	Y		\$491,458	\$1,010,000			1	\$518,542	\$2,020,000	\$518,542	100	6.25	1,010,000
Pro-Tect	Y	Y	\$491,458	\$1,069,000			2	\$576,542					
14 Electrical (SBE Set Aside)													
Brand Services			\$309,871										
Gleason Powers		Y	\$309,871										
Mackenzie Service		Y	\$309,871		\$499,500		2	\$599,629					
Sweeney Construction	Y	Y	\$309,871		\$330,000		1	\$530,129	\$330,000	\$130,129	10	0	33,000
15 Doors, Frames and Hardware													
Builder 2 Specialties	Y	Y	\$947,793										
Builder 2 Hardware	Y	Y	\$947,793	\$860,000	\$542,684		1	\$405,109	\$542,684			0	
O'Connor Door	Y	Y	\$947,793	\$1,215,400	\$626,000		3	\$321,293					
Park Roway		Y	\$947,793	\$975,660	\$561,075		2	\$384,718				No Bid Bond	
15A Door Inset													
Noble		Y	\$101,250										
Turnbridge		Y	\$101,250		\$301,315		2	\$320,065					
					\$220,000		1	\$138,750	\$220,000	\$138,750	100	100	220,000
16 Groutwall Windows													
Cherry Hill Glass	Y	Y	\$3,152,668										
Lockheed Window Corp	Y	Y	\$3,152,668	\$2,785,390			2	\$367,278					
R&R Windows	Y	Y	\$3,152,668	\$2,400,000			1	\$752,668	\$2,400,000	\$752,668	0	6.25	150,000
	Y	Y	\$3,152,668	\$2,817,258			3	\$335,410					
17 Interior Glazing													
Cherry Hill Glass	Y		\$724,971										
R&R Windows	Y		\$724,971	\$784,533			1	\$49,576	\$784,533	\$49,576	25	6.25	395,138
Lockheed Window Corp			\$724,971	\$885,400				\$160,423					
18 Gypsum Partitioning (SBE Set Aside)													
			\$60,120					\$0					
19 Gypsum Board Assembly													
IGS Contracting Corporation	Y		\$3,227,929										
H Carr & Sons	Y		\$3,227,929	\$4,884,755			3	\$1,668,866					
Mangano	Y		\$3,227,929	\$3,765,400			2	\$537,471					
Professional Drywall	Y		\$3,227,929	\$5,799,000			4	\$2,571,071					
Aqualess Inc	Y		\$3,227,929	\$3,449,000			1	\$221,071	\$3,449,000	\$221,071	100	13	3,449,000
	Y		\$3,227,929	\$6,986,000			5	\$3,788,071					
20 Ceramic Tile (SBE Set Aside)													
			\$501,036										

Bid Matrix - Rev 1														
Eastern Connecticut State University														
Bid Package	Bidders	May 7 Receipt	May 29 Receipt	Budget	May 7 Bid Amount	May 29 Bid Amount	Sub Bid Position	Dollars	Apparent Low Number	Apparent Low Dollars	SBE	MBE	SBE Value	MBE Value
21	Atlantic Masonry Products	Y		\$504,086	\$559,732		1	\$36,756	\$559,732	\$36,756		6.25	\$39,792	\$3,297
	Commercial Flooring Concepts	Y		\$501,094										
	Corona Marble & Tile	Y		\$501,094			3	\$143,964						
	M Frank Higgins	Y		\$501,094			Not SBE	\$89,794						
	REB Ceramic Tile & Floor	Y		\$501,094			2	\$77,994						
	Red Thread	Y		\$501,094			Not SBE	\$72,974						
	Dallone	Y		\$501,094			Not SBE	\$73,911						
	Spectrum	Y		\$501,094			4	\$156,746						
	Acoustical Ceilings	Y		\$1,186,836										
	Acoustics, Inc.	Y		\$1,186,836	\$2,475,000		3	\$1,286,164						
22	Central Conn Acoustics	Y		\$1,186,836	\$1,445,533		2	\$758,697						
	Crestone Acoustical	Y		\$1,186,836										
	H Carr & Sons	Y		\$1,186,836										
	N.T. Oliver	Y		\$1,186,836	\$1,333,400		1	\$146,564	\$1,333,400	\$146,564	100	6.25	1,333,400	\$9,338
	Flooring (SBE Set Aside)	Y		\$366,497										
	Bank Floor Covering	Y		\$366,497										
	Commercial Flooring Concepts	Y		\$366,497										
	M Frank Higgins	Y		\$366,497	\$300,000		Not SBE	\$86,497						
	REB Ceramic Tile & Floor	Y		\$366,497	\$768,000		2	\$98,497						
	Spectrum Floors, Inc	Y		\$366,497	\$769,262		1	\$127,065	\$239,292	\$127,065	100	6.25	239,292	\$14,956
23	Red thread	Y		\$366,497	\$299,770		Not SBE	\$67,722						
	Dallone	Y		\$366,497	\$213,560		Not SBE	\$152,497						
	Wood Flooring	Y		\$604,369										
	Commercial Flooring Concepts	Y		\$604,369	\$475,650		1	\$129,719	\$475,650	\$129,719	0	0		
	Dallone Hardwood Flooring	Y		\$604,369	\$479,999		2	\$324,370						
	J.I. Curran & Son	Y		\$604,369	\$496,850		3	\$107,519						
	Kenno Flooring	Y		\$604,369										
	Acoustical Wall Panels	Y		\$796,719										
	Central Conn Acoustics	Y		\$796,719										
	Commercial Acoustics	Y		\$796,719										
24	H Carr & Sons	Y		\$796,719	\$750,820									
	N.T. Oliver	Y		\$796,719	\$750,820									
	Acoustics, Inc	Y		\$796,719	\$733,400									
	Danco	Y		\$796,719	\$450,950									
	Painting (SBE Set Aside)	Y		\$479,943										
	M Brett Painting	Y		\$479,943	\$434,000		1	\$45,943	\$434,000	\$45,943	100	0	\$434,000	-
	Dallone Service	Y		\$479,943	\$771,000		2	\$244,057						
	Professional Painting	Y		\$479,943										
		Y		\$479,943										
		Y		\$479,943										
25	Signage (SBE Set Aside)	Y		\$100,159										
	A&C Sign	Y		\$100,159										
	Acme Sign	Y		\$100,159										
	ASI Signs	Y		\$100,159										
	Sign Pro	Y		\$100,159	\$87,587		1	\$13,666	\$87,587	\$13,666	100	6.25	\$7,587	\$7474
	Sunshine Sign Co	Y		\$100,159										
	Sign Lite	Y		\$100,159										
	Nevco Inc	Y		\$100,159										
		Y		\$100,159										
		Y		\$100,159										
27	Div 10 Specialties	Y		\$366,323										
	Division 10 Specialties Inc	Y		\$366,323										
	New England Interior Specialties	Y		\$366,323	\$367,487		Re-Bid?							
	Steel Tech	Y		\$366,323	\$886,104		Re-Bid?							
	Noble	Y		\$366,323	\$637,525		Re-Bid?							

[illegible]

Bid Matrix - Rev 1												
Eastern Connecticut State University												
Bid Package	May 7 Receipts	May 29 Receipts	Budget	May 7 Bid Amount	May 29 Bid Amount	Sub Bid Package Position	Delta	Barr & Barr			Rev 6/2/13	
								Apparent Low Number	Apparent Low Delta	SBE		
Bidders												
Irwin Sealing	Y		\$277,723	\$758,494		1	-\$13,739					
Robert H Lord	Y		\$277,723	\$383,597		3	\$61,284					
Seize Sealing	Y		\$277,723	\$302,509		2	\$50,286					
37												
Loose Sealing												
Ducharme Sealing												
Irwin Sealing												
Robert H Lord	Y			\$57,549		2	\$57,549					
Seize Sealing	Y			\$49,822		1	\$49,822				0	
38												
Elevators												
Bigle Elevator			\$238,525									
Kona Elevator			\$238,525									
Osie Elevator	Y		\$238,525	\$467,760		2	\$229,235					
Thyssen Krupp	Y		\$238,525	\$280,800		1	\$56,275				0	
39												
Wheel Chair Lifts												
Elevator Systems Co			\$50,750									
			\$50,750								\$0	
40												
Fire Protection												
Allstate Fire			\$684,837									
Copswell			\$684,837									
Davis Ulmer	Y		\$684,837	\$659,400		1	-\$25,437					
M.I. Daily	Y		\$684,837	\$482,584		3	-\$27,253					
Smith Automatic	Y		\$684,837	\$706,700		4	\$22,863					
SIL Fire	Y		\$684,837	\$826,700		6	\$141,863					
HMS Mechanical	Y		\$684,837	\$771,383		5	\$86,544					
K&M	Y		\$684,837	\$975,000		2	-\$9,167					
41												
Plumbing												
BS Mechanical	Y		\$1,105,090			4	\$567,910					
Forguson	Y		\$1,105,090	\$1,497,000		2	\$391,910					
J&B Mechanical	Y		\$1,105,090	\$1,242,000		1	\$136,910					
P&D Mechanical	Y		\$1,105,090	\$1,897,000		3	\$531,910					
42												
HVAC												
BS Mechanical	Y		\$6,807,415									
Forguson	Y		\$6,807,415	\$6,876,000		1	-\$68,585					
M.I. Daily	Y		\$6,807,415	\$7,447,000		2	\$639,585					
P&D Mechanical	Y		\$6,807,415	\$7,777,000		4	\$969,585					
				\$7,687,000		3	\$539,585				No Update Statement	
43												
Electrical												
Dued	Y		\$5,581,350									
ECI	Y		\$5,581,350	\$4,548,000		1	-\$1,033,350					
Forguson	Y		\$5,581,350	\$5,177,588		3	-\$408,382					
WJ Griffin	Y		\$5,581,350	\$5,327,000		5	-\$744,350					
Bluff	Y		\$5,581,350	\$5,055,000		2	-\$526,350					
				\$5,198,650		4	-\$382,700					
44												
Audio Visual												
AdTech	Y		\$1,567,150									
HB Communications	Y		\$1,567,150	\$1,615,535		1	\$48,385					
North American Theatrical	Y		\$1,567,150	\$1,780,172		2	\$383,022				100	
Red Thread												
45												
Security												
Environmental Systems Corp	Y		\$327,683									
ECI	Y		\$327,683	\$271,000		1	-\$56,683					
46												
Landscape Improvements												
											5	





## EXHIBIT B

### GMP PROPOSAL SUMMARY SHEET

Est Number: A13071

EMMETT OBRIEN TECH  
BL-RT-844-CMR  
Ansonia, CT

Job Size:

178,000

Date:

4/9/14

Bid Package Description		Projected GMP Cost	Low Bidder	License (as applicable)
1.1	FINAL CLEANING	\$ 88,880.00	Advantage Cleaning	MCO.0902093/ Asbestos -000016
2.0	DEMOLITION WORK & HAZARDOUS ABATEMENT	\$ 3,636,363.00	Bestech of CT LLC	Demolition-1480 Class A/Lead 000840
3.0	CONCRETE WORK	\$ 1,065,000.00	Waterbury Masonry	MCO.0901085
4.0	MASONRY & PRECAST	\$ 2,971,000.00	Acronom Masonry, Inc	MC0901840
5.0	STRUCTURAL STEEL & METAL DECK	\$ 1,848,000.00	United Steel, Inc	MCO9000395
5.1	METAL FABRICATIONS	\$ 508,000.00	General Welding & Fabrication	MCO.902938
6.0	GENERAL TRADES	\$ 3,831,020.00	Conn Acoustics, Inc	MCO.0900539
6.1	ARCHITECTURAL WOODWORK	\$ 373,600.00	Northeast Interior Systems	8210122-000
6.2	LABORATORY CASEWORK	\$ 644,300.00	Northeast Interior Systems	8210122-000
7.0	MEMBRANE ROOFING SYSTEM	\$ 2,262,000.00	The Imperial Company	MCO.0901630
7.1	METAL WALL & ROOF PANELS	\$ 2,497,000.00	Steeltech Building Products	MCO.0900634
7.2	FIRESTOPPING	\$ 97,500.00	FUS, Inc	
8.0	GLASS & GLAZING	\$ 2,970,000.00	Acorn Glass, Inc.	Major Contractor 900661
8.1	DOORS, FRAMES & HARDWARE	\$ 540,000.00	Builders Hardware	
8.2	SPECIAL DOORS	\$ 176,468.00	Wilco Sales, Inc	
9.0	CERAMIC TILE & QUARRY TILE	\$ 679,824.00	Atlantic Masonry Products	
9.1	TERRAZZO	\$ 342,419.00	Joseph Cohn & Son	
9.2	WOOD FLOORING	\$ 205,385.00	Spectrum Floors	MCO0902905
9.3	ATHLETIC & RESILIENT FLOORS	\$ 1,293,000.00	R&B Ceramic Tile	
9.4	SPECIAL FLOORING	\$ 142,240.00	MacKenzie Painting	
9.5	ACOUSTICAL CEILINGS	\$ 691,600.00	Acoustics, Inc	
9.6	PAINTING	\$ 633,480.00	MacKenzie Painting	





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***Option 3***

***Design-Build (D-B):***



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***TAB 4***

***DAS Policing of General  
Contractors and Subcontractors:***

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***Option 1***

***Design-Bid-Build (D-B-B):***

## **PART 1 - GENERAL**

### **1.1 RELATED DOCUMENTS**

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 01 Specification Sections, apply to this Section.

### **1.2 SUMMARY**

- A. This Section specifies procedures for preparation and submittal of the Contractor's Applications for Payment.
- B. Related Sections: The following Sections contain requirements that relate to this Section.
1. Notice to Bidders: Article 10
  2. General Conditions: Articles: 27 "Schedule of Values, Application for Payment"; 28 "Partial Payments"; 31 "Final Payment"; and 32 "Owner's Right to Withhold Payments".
  3. Division 01 Section 01 32 16 "Construction Progress Schedules" for requirements for construction scheduling and reporting progress of work.
  3. Division 01 Section 01 32 16.13 "CPM Schedules" for requirements for CPM scheduling and reporting progress of work.
  4. Division 01 Section 01 33 00 "Submittal Procedures".
  5. Division 01 Section 01 77 00 "Closeout Procedures" for requirements for Final Payment.

### **1.3 SCHEDULE OF VALUES**

- A. **Coordination:** Coordinate preparation of the "Schedule of Values" with preparation of the CPM Schedule or Construction Schedule. Use "Schedule of Values" form as required by the Owner
1. Submit the "Schedule of Values" to the Construction Administrator at the earliest possible date but no later than **twenty-one (21)** days after Contract Start Date.
  2. **Sub-schedules:** Where Work is separated into phases requiring separately phased payments, provide sub-schedules showing values correlated with each phase of payment.
- B. **Format and Content:** Use the Project Manual Table of Contents as a guide to establish the format for the "Schedule of Values". Provide at least one line item for each Specification Section on electronic media printout.
1. **Identification:** Project identification on the Schedule of Values shall include, but not be limited to, the following:
    - a. Owner
    - b. Project Number
    - c. Project Name
    - d. Project Location
    - e. Contractor's name and address.
  2. Arrange the "Schedule of Values" in tabular format as required by the Owner, containing separate columns including, but not limited to, the following items:
    - a. Item Number.
    - b. **Description of Work with Related Specification Section or Division Number.**
    - c. Scheduled Values broken down by description number, type material, units of each material.

- 1) Include break down of General Condition requirements, i.e. bonds, insurance premiums, taxes, job mobilization, temporary facilities, field supervision and layout, operation and maintenance manuals, punch list activities, project record documents, demonstration and training, overhead, and profit as separate line items.

**d. Name of subcontractor.**

- e. Name of manufacturer or fabricator.
- f. Name of supplier.
- g. Retainage.
- h. Contract sum in sufficient detail.

3. Percentage of Contract Sum to nearest one-hundredth percent, adjusted to total 100 percent.
4. Provide a breakdown of the Contract Sum in sufficient detail to facilitate continued evaluation of Applications for Payment and progress reports. Coordinate with the Project Manual Table of Contents. Break principal subcontract amounts down into several line items. In addition, the following items listed below must be included.
  - a. **Site Logistics Plan (01 29 76)** a lump sum at 1/20 of one percent of the base bid total project cost at the time of submission of this plan.
  - b. **Coordination Drawings (01 31 00)** a lump sum of this cost for payment at the submittal of this product a minimum cost of 1/10<sup>th</sup> of one percent of the base bid total project cost or \$5,000 whichever is greater..
  - c. **Photographic Documentation (01 32 33)** a monthly cost of \$1,000 per month to be paid each month upon receipt of the photographs or forfeit of that month's payment.
  - d. **Submittal Schedule (01 33 00)** a lump sum payment calculated at 1/20<sup>th</sup> of 1% of the base bid total project cost upon receipt of the schedule
  - e. **Waste Collection & Cleaning (01 50 00)** a monthly cost. A minimum payment of \$1,000 to \$3,000 (based on size & complexity of the project) with forfeit of that monthly payment if not done.
  - f. **As-Built Updates (01 31 00)** a monthly cost, a minimum payment of \$1,000 with forfeit of that monthly payment if not done.
  - g. **Start-up and Adjusting (01 75 00)** a lump sum cost upon completion. (to be determined by PM with A/E & CA/CM advice)
  - h. **Schedule (01 32 16.13)** a lump sum payment upon receipt of the base line schedule. A payment of 40% of the total amount of the total cost which is to be calculated at 1/8<sup>th</sup> of one percent of the base bid total project cost. Monthly updates using the remainder of the cost divided evenly over the accepted schedule duration with a forfeit of the monthly payment of the update is not received on time.

Any forfeited amounts being withheld by the CA for non-performance will be adjusted at the final payment by a credit change order to the owner.
5. Round amounts to nearest whole dollar; the total shall equal the Contract Sum.
6. **Unit-Cost Allowances:** Show the line-item value of unit-cost allowances, as a product of the unit cost, multiplied by the measured quantity. Estimate quantities from the best indication in the Contract Documents.
7. **General Conditions:** Show line items for indirect costs and margins on actual costs only when such items are listed individually in Applications for Payment. Each item in the Schedule of Values and Applications for Payment shall be complete. Include the total cost and proportionate share of general overhead and profit margin for each item.
  - a. Temporary facilities and other major cost items that are not direct cost of actual work-in-place may be shown either as separate line items in the Schedule of Values or distributed as general overhead expense, at the Contractor's option.

## **1.4 APPLICATIONS FOR PAYMENT**

- A. Each Application for Payment shall be consistent with previous applications and payments as certified by the Architect and Construction Administrator and paid for by the Owner.
  - 1. The initial "Application for Payment", the "Application for Payment" at time of "Substantial Completion", and the final "Application for Payment", involve additional requirements.
- B. Payment-Application Terms: The Owner will process monthly progress payments. The Contractor may submit applications for payment on a monthly basis.
- C. Payment-Application Forms: Use the "Application for Payment" form as required by the Owner. Present the required information on electronic media printout or Owner approved form; multiple pages should be used if required.
  - 1. For each item, provide a column including but not limited to the following items:
    - a. Item Number.
    - b. Description of Work and Related Specification Section or Division.
    - c. Scheduled Value, break down by units of material and units of labor.
    - d. Work Completed from previous application.
    - e. Work Completed this period.
    - f. Materials presently stored.
    - g. Total Completed and stored to date of application.
    - h. Percentage of Completion.
    - i. Balance to Finish.
    - j. Retainage.
- D. **Application Preparation:** Complete every entry on the Application form. At the time of Final Payment only, include an executed Application form by a person authorized to sign legal documents on behalf of the Contractor. The Construction Administrator will return incomplete Applications without action.
  - 1. Entries shall match data on the "Schedule of Values".
  - 2. Include amounts of Change Orders issued prior to the last day of the construction period covered by the application.
- E. **Transmittal:** Except for final payment, submit to the Construction Administrator by a method ensuring receipt within forty-eight (48) hours. One (1) complete, signed and notarized original of each Application for Payment, including lien waivers and similar attachments when required, along with six (6) copies. For Final Payment, nine (9) complete, signed and notarized copies shall be submitted.
  - 1. Transmit each copy with a transmittal form listing attachments and recording appropriate information related to the application, in a manner acceptable to the Architect.
- F. **Applications for Payment:** Administrative actions and submittals, that must precede or coincide with submittal of the first Application for Payment and all subsequent Application for Payments including, but not limited to, the following items:
  - 1. List of subcontractors and suppliers' name, FEIN/Social Security numbers, and Connecticut Tax Registration Numbers.
  - 2. List of principal suppliers and fabricators.
  - 3. Schedule of Values.
  - 4. Contractor's Construction Schedule (preliminary if not final).
  - 5. Schedule of principal products.
  - 6. Submittal Schedule (preliminary if not final).
  - 7. List of Contractor's staff assignments.



8. List of Contractor's principal consultants.
9. Copies of all applicable permits.
10. Copies of authorizations and licenses from governing authorities for performance of the Work.
11. Proof that subcontractors have been paid amounts included on the Contractor's Application for Payment within thirty (30) days after the Owner has paid the Contractor for the particular Application for Payment in accordance with Connecticut General Statute § 49-41a (a)(1).
12. Releases of Lien from subcontractors with amounts included on the Contractor's Application for Payment when Contractor has been paid by the Owner for the particular Application for Payment but the subcontractors have not been paid.
13. Proof that as-built documents are updated as required by Section 01 77 00 "Closeout Procedures.
14. Initial as-built survey and damage report, if required.
15. Update the "Contractor's Master Subcontract Agreement List" and submit copies all recently executed Subcontract Agreements in accordance with CGS § 4b-96.
  - 15.1. The "Contractor's Master Subcontract Agreement List" shall list all Subcontract Agreements in order of Contract Sum magnitude (from high to low) in the following format:

Contractor's Master Subcontract Agreement List				
Subcontractor Name	Minority Or Small Business Designation	Trade	Address	Contract Sum

16. In accordance with CGS § 42-158j (b):

Each payment requisition submitted shall include a statement showing the status of all pending construction change orders, other pending change directives and approved changes to the original contract or subcontract. Such statement shall identify the pending construction change orders and other pending change directives, and shall include the date such change orders and directives were initiated, the costs associated with their performance and a description of any work completed. As used in this section, "pending construction change order" or "other pending change directive" means an authorized directive for extra work that has been issued to a contractor or a subcontractor and identified by an official Change Order Number or Construction Change Directive Number assigned by the State of Connecticut.

- G. **Application for Payment at Substantial Completion:** Following issuance of the Certificate of Substantial Completion submit an Application for Payment form; use the form as required by the Owner. Present the

required information on electronic media printout as applicable that include, but are not limited, to the following:

1. This application shall reflect Certificates of Partial Substantial Completion issued previously for Owner occupancy of designated portions of the Work.
2. Administrative actions and submittals that shall precede or coincide with this application include, but are not limited to, the following:
  - 2.1 Occupancy permits and similar approvals.
  - 2.2 Warranties (guarantees) and maintenance agreements.
  - 2.3 Test/adjust/balance records.
  - 2.4 Maintenance instructions.
  - 2.5 Meter readings.
  - 2.6 Startup performance reports.
  - 2.7 Changeover information related to Owner's occupancy, use, operation, and maintenance.
  - 2.8 Final cleaning.
  - 2.9 Application for reduction of retainage and consent of surety.
  - 2.10 Advice on shifting insurance coverage.
  - 2.11 Final progress photographs.
  - 2.12 List of incomplete Work, recognized as exceptions to Architect's Certificate of Substantial Completion.

**H. Final Payment Application:** Administrative actions and submittals that must precede or coincide with submittal of the final Application for Payment include, but are not limited, to the following:

1. Completion of Project Closeout requirements.
2. Completion of list of items remaining to be completed as indicated on the attachment to the Certificate of Substantial Completion.
3. Ensure that unsettled claims will be settled.
4. Ensure that incomplete Work is not accepted and will be completed in accordance with a schedule prepared by the Contractor which is acceptable to the Owner.
5. Transmittal of required Project construction records to the Owner (including as-built documents specified in Section 01 77 00 "Closeout Procedures").
6. Certified property survey.
7. Proof that taxes, fees, and similar obligations were paid.
8. Removal of temporary facilities and services.
9. Removal of surplus materials, rubbish, and similar elements (Reference Section 01 74 19 "Construction Waste Management & Disposal").
10. Change of door locks to Owner's access.
11. The requirements of the General Conditions and Supplementary Conditions for Final Acceptance, Final Completion, Final Inspection, and Final Payment.
12. Asbestos, lead or other hazardous material manifests.
13. Completion of "Building Contractor Reporting Form" as supplied by Department of Construction Services, for all Contractors, Subcontractors, Vendors, Suppliers, etc. who work on the Contract. The form includes the following information:
  - a. Contractor/Subcontractor name.

- b. FEIN/Social Security Numbers
- c. Connecticut Tax Registration Numbers
- d. Type of work
- e. Name of business and address
- f. Remittance address.

**PART 2 - PRODUCTS (Not Applicable)**

**PART 3 - EXECUTION (Not Applicable)**

**END OF SECTION 01 29 76**

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***Option 2***

***Construction Manager At Risk (CMR):***

State Of Connecticut Department of Administrative Services  
Division of Construction Services  
Standard Form of Agreement Between Owner and Construction Manager-At-Risk (CMR)  
For Guaranteed Maximum Price (GMP)

**ARTICLE 2 CONSTRUCTION MANAGER AT RISK RESPONSIBILITIES**

The CMR shall perform the services described in this Article. The services to be provided under Sections 2.1 and 2.2 constitute the Preconstruction Phase Services. If the Owner and CMR agree after consultation with the Architect, the Construction Phase may commence before the Preconstruction Phase is completed, in which case both phases will proceed concurrently.

**2.1.6 SUBCONTRACTORS AND SUPPLIERS**

**2.1.6.1 Bidding and Award of Subcontracts.** The CMR shall review with the Owner the CMR's bidding procedures and bidder criteria and shall establish a schedule for the competitive bidding and awarding of Subcontracts, to be conducted separately for each of the Project Elements, in accordance with all applicable federal and state requirements. The Project Elements may constitute the whole or part of the Work. **The CMR shall use all reasonable means and efforts to develop the interest of qualified Subcontractors in the Project.**

- .1** The CMR shall include in its **subcontractor** bid documents the following requirements:
  - .1** For work to be performed with an estimated value in excess of **Five Hundred Thousand Dollars ( \$500,000.00 )**, the subcontractor shall be prequalified in the State of Connecticut Department of Administrative Services classification noted on the pertinent Invitation to Bid;
  - .2** the bid shall be accompanied by a bid bond or certified check in an amount which shall be **Ten Percent ( 10% )** of any bid for work with an estimated value of at least **Fifty Thousand Dollars ( \$50,000.00 )**. If the bidder is a small contractor or minority business enterprise pursuant to Connecticut General Statutes Section 4a-60g and further described in Appendix I to this Agreement "Administrative and Statutory Requirements" ("Appendix I"), it may provide in lieu of a bid bond, a letter of credit in an amount equal to **Ten Percent ( 10% )** of the bid amount if the estimated value is less than one hundred thousand dollars and in an amount equal to **Twenty-Five Percent ( 25% ) of the bid amount**, if the estimated value is one hundred thousand dollars or greater; and
  - .3** the bidder shall possess experience with projects of a similar nature and scope.
- .2** The Bid documents and any relevant notices or advertisements shall set forth all of the CMR's submission requirements for the bid packages and shall clearly list those requirements the omission of which shall result in a bid rejection. In addition, the Bid documents shall include, prominently placed, the following language: *"The CMR is authorized to waive minor irregularities which it considers in the best interest of the Project, provided the reasons for any such waiver are stated in writing by the CMR and made a part of the contract file."*

**2.1.6.2** The CMR shall invite bids and give notice of opportunities to bid on Project Elements by advertising, at least once, in one or more newspapers having general circulation in the State of Connecticut. Bids shall be directed to the CMR at the address indicated in the aforementioned advertisements. Bidders shall be prequalified pursuant to Connecticut General Statutes Section 4a-100 through the State of Connecticut Department of Administrative Services. All advertisements, notices, scheduling notices, addenda and/or communications of any kind relevant to the bidding and award of contracts for Project Elements shall be posted on the State of Connecticut Department of Administrative Services Contracting Portal.

**2.1.6.3** The CMR shall conduct pre-bid conferences, in coordination with the Owner's DCS Project Manager, to familiarize prospective bidders with the Project and the bid documents. The CMR shall assist the Architect with regard to responding to questions from bidders and with the issuance of addenda to the bid documents. All responses to questions from bidders submitted prior or subsequent to pre-bid conferences shall be in writing. All bid opening dates and times shall be scheduled to accommodate the presence of Owner's DCS Project Manager or other designated representative of the Owner, who shall witness each bid opening and initial and date each bid.

- .1** Each bid shall be kept sealed until opened publicly on the date and at the time set forth in the notice soliciting such bid. Such opening shall take place at a location to be selected by the CMR and approved by the Owner. The CMR will analyze all bids and proposals to verify that the proposals are complete, that no unacceptable qualifications are made, that the bidders meet all CMR's criteria to the extent that it is in the best interest of the Project, and that the bidders have included the essential and qualitative information specified by the CMR in its bid documents. The CMR may waive minor irregularities in the bid documents.
- .2** Within **Seven (7) days** of any bid opening, the CMR shall make available for review by bidders all bid packages at a location within the State of Connecticut to be designated by the CMR. A notice in prominent typeface describing such location shall be displayed in a visible place at the bid opening.
- .3** The CMR is responsible for ensuring an adequate number of bids received for each advertised bid package through careful scope preparation and combination and/or separation of work, as required. In the event the CMR wants to recommend award of a package that received fewer than **three (3) bids**, CMR must describe in writing the following:
  - .1** detailed explanation of efforts made by the CMR;
  - .2** the number of contractors provided with the bid information;
  - .3** any information the CMR may have acquired as to reasons for the low number of bids received; and
  - .4** that the pricing received from the contractor to be recommended is competitive and reasonable according to industry standards and the Project estimate.
- .4** Prior to CMR's recommendation to Owner for approval of a contract, the CMR shall review any of Owner's performance related files or evaluations pertinent to the recommended award. The CMR shall, after consultation with and approval by the Owner, award any contracts for Project Elements to the responsible, qualified, and approved **subcontractor** submitting the lowest bid in compliance with CMR's bid requirements and procedures. The CMR shall not be eligible to submit a bid for any Project Element contract work.

**2.1.6.4** Notwithstanding the foregoing Subsection 2.1.6.3, and as set forth in all pertinent bid advertisements and notices, the following conditions shall render a bid invalid and rejected by the CMR:

- .1** the **subcontractor**, if submitting a bid for work to be performed with an estimated value in excess of **Five Hundred Thousand Dollars ( \$500,000.00 )** is not prequalified in the State of Connecticut Department of Administrative Services requisite classification noted on the pertinent Invitation to Bid;
- .2** the bid is not accompanied by a bid bond or certified check in an amount which shall be **Ten percent ( 10% )** of any bid for work with an estimated value of at least **Fifty Thousand Dollars ( \$50,000.00 )**, or if the bidder is a small contractor or minority business enterprise pursuant to Connecticut General Statutes Section 4a-60g, it has not provided in lieu of a bid bond a letter of credit in an amount equal to **Ten Percent ( 10% )** of the bid amount if the estimated value is less than one hundred thousand dollars and in an amount equal to **Twenty-Five Percent ( 25% )**, if the estimated value is one hundred thousand dollars or greater;
- .3** the bidder appears on the State of Connecticut Department of Labor Debarment List.; and/or
- .4** the bidder does not provide a requirement or qualification, the omission of which the CMR clearly stated in all bid solicitation communications would be grounds for bid rejection without allowance for waiver.

**2.1.6.5** Aspects of the Work which are not Project Elements, not included in the Construction Phase Services Costs described in Section 6.1 herein, and not otherwise included as an allowance under this Agreement, shall be awarded through a competitive process by which the CMR shall obtain quotes from no fewer than **Three ( 3 )** firms. In the event the CMR obtains fewer than **Three ( 3 )** quotes, the CMR must explain in writing the reasons therefore. If the CMR does not select the lowest price, the CMR must justify in writing its basis for its selection. All selections are subject to consultation with, and approval by, the Owner. Any issues arising from the award process described in this Section 2.1.6.5 shall be resolved by the CMR at its own cost.

**2.1.6.6** The CMR shall be solely and fully responsible for the performance of each of the Subcontractors and shall indemnify and hold harmless the Owner from and against any and all additional costs and liability in excess of the GMP incurred as a result of failure of any **Subcontractor** to perform in accordance with the applicable Subcontract or the performance of such Subcontractor in a negligent manner. In no event will any cost or expense resulting in any manner from the negligence, fault, breach or failure of any **Subcontractor** to perform be a Cost of the Work as defined in this Agreement.

- .1** The CMR shall compile evaluation information for each subcontract during the performance of the subcontract and shall submit the evaluation information in a format acceptable to the Owner to the DCS Project Manager at **Fifty Percent ( 50% )** completion and **One Hundred Percent ( 100% )** completion of each subcontract.

**2.1.6.7** The CMR shall, after obtaining the written consent of the Owner as to the acceptability of each **Subcontractor**, award and execute Subcontracts with the successful bidders in accordance with applicable laws, regulations and ordinances. The terms of each Subcontract and the award of such contracts shall be fully in accordance with this Agreement and are subject to the prior approval of the Owner. Any selection and/or rejection of any bid must be approved by the Owner. Upon Owner's request, CMR shall provide copies of any and all Subcontracts to Owner for review.



**2.1.9 ADMINISTRATIVE, STATUTORY REQUIREMENTS, EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION**

The CMR shall comply and shall use reasonable efforts to cause all **Subcontractors** to comply, with applicable laws, regulations and special requirements of the Contract Documents regarding equal employment opportunity and affirmative action programs, set forth in Appendix I, attached hereto and incorporated herein in its entirety. The CMR shall present to, and review with, the Owner, any submissions relative to such administrative and statutory requirements prior to any submission by the CMR to the appropriate governmental agencies. In particular, the CMR shall present to, and review with, the Owner its set-aside program and Affirmative Action Plan prior to submission to the relevant agencies.

**2.3.2 ADMINISTRATION**

**2.3.2.1** The Work shall be performed under subcontracts or by other appropriate agreements with the CMR. The CMR shall obtain competitive public bids in accordance with the provisions of Sections 2.1.6.1 through 2.1.6.3 of this Agreement. Subcontracts shall be in a form acceptable to the Owner.

- .1** Each subcontract shall contain provisions that:
  - .1** require that such work be performed in accordance with the requirements of the Contract Documents;
  - .2** waive all rights to subrogation against the Owner, Architect, Owner's agents, CMR, subcontractors for damages caused by fire or other perils covered by insurance obtained for or in place upon the Project;
  - .3** require the Subcontractors to carry and maintain insurance coverage in accordance with the Contract Documents and file Certificates of such coverage, with the CMR;
  - .4** require the Subcontractors to submit certificates of waiver of claims for work completed by their respective Secondary Subcontractors, as that term is defined in General Conditions Article 1, conditioned upon disbursement of the progress payment next due and owing;
  - .5** require that each Subcontractor pay any amounts due any of its Sub-subcontractors whether for labor performed or materials furnished within thirty (30) days after such Subcontractor received a payment from the CMR which encompasses labor or materials furnished by such Subcontractor.
  - .6** the Subcontractor or the Secondary Subcontractor's mark-up on change orders to have committed maximum overhead and profit pursuant to General Conditions Article 13;
  - .7** require submission to the CMR or the Subcontractor as the case may be, of applications for payment on a form approved by the Owner together with clearly defined invoices and billings supporting all such applications under each subcontract to which the Subcontractor is a party;
  - .8** require each Subcontractor to furnish to the CMR in a timely fashion all information necessary for the preparation and submission of the reports required herein;
  - .9** require that each Subcontractor continue to perform under its subcontract in the event that the CMR is terminated and the Owner, at its sole option takes as an assignment the subcontract and requests that the Subcontractor continue such performance;
  - .10** require each Subcontractor to satisfactorily remove or stockpile all debris created by its activity pursuant to the discretion of the CMR;
  - .11** provide that the subcontract should be assignable to the Owner;



- .12 require all performance and payment bonds issued by a Subcontractor on the Project name the Owner and the CMR as dual obligees;
  - .13 require that each Subcontractor cooperate with the Owner and CMR and permit the Owner, CMR or a designated auditor or representative to review and audit the Subcontractor's books and records in connection with any costs charged to the Project and included in the price of any change orders;
  - .14 require that each Subcontractor agree to work overtime, add manpower, or do whatever is necessary to meet the milestone dates and/or Substantial Completion dates, if in the opinion of the CMR any of the milestone dates and/or Substantial Completion dates are in jeopardy as a result of such Subcontractor;
  - .15 require that each Subcontractor agree that if in the opinion of the CMR, the Subcontractor fails to take sufficient action to preserve the milestone and/or Substantial Completion dates after two days' written notice from the CMR, the CMR may take whatever action he deems necessary to meet the milestone and/or Substantial Completion dates and deduct all costs incurred as a result of such action from the relevant subcontract;
  - .16 require that each Subcontractor include in its performance bonds, if required, the language set forth in Items .14 and .15, above.
- .2 The CMR shall provide to the Owner, in an electronic format acceptable to the Owner, the following information for each bid package listed in Exhibit B to the GMP Amendment: (1) the subcontract and second tier subcontracts; (2) the MBE/SBE status of the subcontractor and each of its second tier subcontractors; (3) the amount paid by the CMR to the subcontractors and the amount paid by the subcontractors to their second tier subcontractors; (4) a detailed description of the selection process utilized by the subcontractor in awarding its second tier subcontracts; and, (5) a list of all competitive bids, proposals, or quotes received by the subcontractor, together with any other information used by the subcontractor in awarding its second tier subcontracts.
- 2.3.2.2** The CMR shall comply with the provisions of the Connecticut General Statutes (GCS) §49-41 regarding the Subcontractor Payment And Performance Bonds.
- .1 The CMR shall require Payment Bonds from its Subcontractor, except that, pursuant to CGS §49-41, a Payment Bond shall not be required to be furnished in relation to any general bid in which the total estimated cost of labor and materials under the contract with respect to which the bid is submitted is less than One Hundred Thousand Dollars (**\$100,000.00**) or in relation to any sub-bid in which the total estimated cost of labor and materials under the contract with respect to which the sub-bid is submitted is less than One Hundred Thousand Dollars (**\$100,000.00**).
  - .2 The CMR may, in its discretion, require Performance Bonds from its Subcontractors, except that, pursuant to CGS §49-41, a Performance Bond shall not be required to be furnished in relation to any general bid in which the total estimated cost of labor and materials under the contract with respect to which the bid is submitted is less than Twenty-Five Thousand Dollars (**\$25,000.00**) or in relation to any sub-bid in which the total estimated cost of labor and materials under the contract with respect to which the sub-bid is submitted is less than Fifty Thousand Dollars (**\$50,000.00**).
  - .3 If the bidder is a small contractor or minority business enterprise pursuant to Connecticut General Statutes Section 4a-60g, it may provide in lieu of a Payment or Performance bond, if required by the CMR in accordance with this Section 2.3.2.2, a letter of credit in an amount equal to Ten Percent (**10%**) of

the bid amount if the estimated value of the contract for which the bid is submitted is less than one hundred thousand dollars and in an amount equal to Twenty-Five Percent ( **25%** ) if the estimated value of such contract is One Hundred Thousand Dollars ( **\$100,000.00** ) or greater.

- 2.3.2.3** Subcontracts and agreements with suppliers furnishing materials or equipment fabricated to a special design shall conform to the payment provisions of Sections 7.1.8 and 7.1.9 of this Agreement and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner.
- 2.3.2.4** The CMR shall schedule and conduct meetings at which the Owner, Owner's Representative (as described in Section 3.2 herein), DCS Project Manager, Architect, CMR and appropriate Subcontractors can discuss matters including but not limited to: procedures, quality control, safety, scheduling, changes in the Work and the status of the Work. The CMR shall prepare and promptly distribute meeting minutes, including formal weekly project meetings. The Owners Representative shall prepare the minutes of the main project meetings. Owner may also schedule meetings at such times as it deems necessary.
- 2.3.2.5** Promptly after the Owner's acceptance of the GMP proposal, the CMR shall update and incorporate the planned Project Construction Schedule described in Section 2.1.3.1 of this Agreement into the schedules described in General Conditions Article 11, including the Owner's occupancy requirements.
- 2.3.2.6** The CMR shall provide monthly written reports to the Owner and Architect on the progress of the Work. The monthly report shall be provided not later than the 15<sup>th</sup> day of the subsequent month. Such reports shall contain such information as may be required by the Owner in its sole discretion and be in a form and format acceptable to the Owner. The CMR shall maintain a daily log containing a record of weather, Subcontractors working on the site, number of workers, heavy equipment on the site and utilization of such equipment, Work accomplished, observations of any differing conditions encountered, problems encountered and other similar relevant data as the Owner may reasonably require. Heavy equipment as referred to in this Section shall mean machinery that may be used for construction, including but not limited to, bulldozers, earthmoving equipment, well-drilling machinery and cranes. The log shall be available to the Owner and Architect but shall not relieve the CMR of its notice and reporting obligations to Owner hereunder.
- 2.3.2.7** The CMR shall develop a system of cost control for the Work to be provided to Owner in monthly reports, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The CMR shall identify variances between actual and estimated costs and report the variances to the Owner and Architect at regular intervals.
- 2.3.2.8** The CMR will provide administrative, management and related services as required to coordinate work of the Subcontractors with each other and with the activities and responsibilities of the CMR, the Owner, and the Architect to complete the Project in accordance with Owner's objectives for cost, time and quality and provide sufficient organization, personnel and management to carry out the requirements of this Agreement.
- 2.3.2.9** The CMR will at all times monitor and update the Project Construction Schedules, consistent with General Conditions Article 11.
- 2.3.2.10** The CMR will provide regular monitoring of the approved GMP showing actual costs for activities in progress and estimates for uncompleted tasks.

- 2.3.2.11** The CMR, in conjunction with the Architect, shall incorporate the United States Green Building Council's Leadership in Energy & Environment Design ("LEED") Green Building Rating system (latest version) to achieve LEED Silver level of certification throughout the design, construction and operation of the Project. The CMR shall make a good faith effort to comply with the LEED requirements but is not responsible for the final rating received from the United States Green Building Council. The CMR shall cause the construction work to conform to the LEED construction document requirements. This LEED certification shall be supported by independent third party commissioning in compliance with the requirements of the Connecticut Compliance Manual for High Performance Buildings to ensure that the long-term operation of the Project complies with this standard.
- 2.3.2.12** The CMR shall cause the Mechanical, Electrical and Plumbing (MEP) Subcontractors to provide commissioning support services and testing services per the Commissioning Agent's requirements, as part of their respective positions relative to the Work.
- 2.3.2.13** The CMR will, consistent with the requirements of the project schedule and budget, endeavor to prevent and eliminate the necessity or requirement for any Changes to the Work and to the extent such changes are nevertheless determined to be necessary or desired by the Owner, make recommendations to the Architect and the Owner, prepare proposed changes orders, review requests for changes, negotiate Subcontractor's change proposals; and if change orders are acceptable, sign change orders prepared by the Architect and Owner.
- 2.3.2.14** The CMR shall compile performance evaluation information for each subcontractor during the performance of the subcontract and shall submit the evaluation information in a format acceptable to the Owner to the DCS Project Manager at **Fifty Percent ( 50% )** completion and **One Hundred Percent ( 100% )** completion of each subcontract.

END

**PART 1 - GENERAL**

**1.1 RELATED DOCUMENTS**

- A. Construction Documents and general provisions of the CMR Agreement Between Owner and Construction Manager and the Guaranteed Maximum Price (GMP) Amendment, including Division 00 General Conditions of the Contract for Construction – CMR and Supplementary Conditions and other Division 01 Specification Sections, apply to this Section.

**1.2 SUMMARY**

- A. This Section specifies procedures for preparation and submittal of the Construction Manager's Applications for Payment.
- B. Related Sections: The following Sections contain requirements that relate to this Section.
1. Division 00 General Conditions of the Contract for Construction – CMR: Articles: 27 "Schedule of Values, Application for Payment"; 28 "Partial Payments"; 31 "Final Payment"; and 32 "Owner's Right to Withhold Payments".  
Division 01 Section 01 32 16.13 "CPM Schedules - CMR" for requirements for CPM scheduling and reporting progress of work.
  3. Division 01 Section 01 33 00 "Submittal Procedures - CMR" .
  4. Division 01 Section 01 77 00 "Closeout Procedures - CMR" for requirements for Final Payment.

**1.3 SCHEDULE OF VALUES**

- A. **Coordination:** Coordinate preparation of the "Schedule of Values" with preparation of the CPM Schedule. Use "Schedule of Values" form as required by the Owner
1. Submit the "Schedule of Values" to the Owner's Representative at the earliest possible date but no later than **twenty-one (21)** Calendar Days after Contract Start Date.
  2. **Sub-schedules:** Where Work is separated into phases requiring separately phased payments, provide sub-schedules showing values correlated with each phase of payment.
- B. **Format and Content:** Use the Project Manual Table of Contents as a guide to establish the format for the "Schedule of Values". Provide at least one line item for each Specification Section on electronic media printout.
1. **Identification:** Project identification on the Schedule of Values shall include, but not be limited to, the following:
    - a. Owner
    - b. Project Number
    - c. Project Name
    - d. Project Location
    - e. Construction Manager's name and address.
  2. Arrange the "Schedule of Values" in tabular format as required by the Owner, containing separate columns including, but not limited to, the following Items:
    - a. Item Number.
    - b. Description of Work with Related Specification Section or Division Number.
    - c. Scheduled Values broken down by description number, type material, units of each material.
      - 1) Include break down of General Condition requirements, i.e. bonds, insurance premiums, taxes, job mobilization, temporary facilities, field supervision and layout, operation and maintenance manuals, punch list activities, project record documents, demonstration and training, overhead, and profit as separate line items.

- d. Name of Subcontractor.
  - e. Name of manufacturer or fabricator.
  - f. Name of supplier.
  - g. Retainage.
  - h. Guaranteed Maximum Price in sufficient detail.
3. Percentage of Guaranteed Maximum Price to nearest one-hundredth percent, adjusted to total 100 percent.
4. Provide a breakdown of the Guaranteed Maximum Price in sufficient detail to facilitate continued evaluation of Applications for Payment and progress reports. Coordinate with the Project Manual Table of Contents. Break principal subcontract amounts down into several line items. In addition, the following items listed below must be included.
- a. **Site Logistics Plan (01 29 76- CMR)** a lump sum at 1/20 of one percent of the base bid total project cost at the time of submission of this plan.
  - b. **Coordination Drawings (01 31 00 - CMR)** a lump sum of this cost for payment at the submittal of this product a minimum cost of 1/10<sup>th</sup> of one percent of the base bid total project cost or \$5,000 whichever is greater.
  - c. **Photographic Documentation (01 32 33- CMR)** a monthly cost of \$1,000 per month to be paid each month upon receipt of the photographs or forfeit of that month's payment.
  - d. **Submittal Schedule (01 33 00- CMR)** a lump sum payment calculated at 1/20<sup>th</sup> of 1% of the base bid total project cost upon receipt of the schedule.
  - e. **Waste Collection & Cleaning (01 50 00- CMR)** a monthly cost. A minimum payment of \$1,000 to \$3,000 (based on size & complexity of the project) with forfeit of that monthly payment if not done.
  - f. **As-Built Updates (01 31 00- CMR)** a monthly cost, a minimum payment of \$1,000 with forfeit of that monthly payment if not done.
  - g. **Start-up and Adjusting (01 75 00 - CMR)** a lump sum cost upon completion. (to be determined by PM with A/E & OR advice)
  - h. **Schedule (01 32 16.13 - CMR)** a lump sum payment upon receipt of the base line schedule. A payment of 40% of the total amount of the total cost which is to be calculated at 1/8<sup>th</sup> of one percent of the base bid total project cost. Monthly updates using the remainder of the cost divided evenly over the accepted schedule duration with a forfeit of the monthly payment of the update is not received on time.
- Any forfeited amounts being withheld by the Owner's Representative for non-performance will be adjusted at the final payment by a credit change order to the owner.
5. Round amounts to nearest whole dollar; the total shall equal the Guaranteed Maximum Price.
6. **Unit-Cost Allowances:** Show the line-item value of unit-cost allowances, as a product of the unit cost, multiplied by the measured quantity. Estimate quantities from the best indication in the Contract Documents.
7. **General Conditions:** Show line items for indirect costs and margins on actual costs only when such items are listed individually in Applications for Payment. Each item in the Schedule of Values and Applications for Payment shall be complete. Include the total cost and proportionate share of general overhead and profit margin for each item.
- a. Temporary facilities and other major cost items that are not direct cost of actual work-in-place may be shown either as separate line items in the Schedule of Values or distributed as general overhead expense, at the Construction Manager's option.

## 1.4 APPLICATIONS FOR PAYMENT

- A. Each Application for Payment shall be consistent with previous applications and payments as certified by the Architect and Owner's Representative and paid for by the Owner.

**Progress Payment Procedures for CMR**

1. The initial "Application for Payment", the "Application for Payment" at time of "Substantial Completion", and the final "Application for Payment", involve additional requirements.
- B. Payment-Application Terms:** The Owner will process monthly progress payments. The Construction Manager may submit applications for payment on a monthly basis.
- C. Payment-Application Forms:** Use the "Application for Payment" form as required by the Owner. Present the required information on electronic media printout or Owner approved form; multiple pages should be used if required.
  1. For each item, provide a column including but not limited to the following items:
    - a. Item Number.
    - b. Description of Work and Related Specification Section or Division.
    - c. Scheduled Value, break down by units of material and units of labor.
    - d. Work Completed from previous application.
    - e. Work Completed this period.
    - f. Materials presently stored.
    - g. Total Completed and stored to date of application.
    - h. Percentage of Completion.
    - i. Balance to Finish.
    - j. Retainage.
- D. Application Preparation:** Complete every entry on the Application form. At the time of Final Payment only, include an executed Application form by a person authorized to sign legal documents on behalf of the Construction Manager. The Owner's Representative will return incomplete Applications without action.
  1. Entries shall match data on the "Schedule of Values".
  2. Include amounts of Change Orders issued prior to the last day of the construction period covered by the application.
- E. Transmittal:** Except for final payment, submit to the Owner's Representative by a method ensuring receipt within **forty-eight (48)** hours. **One (1)** complete, signed and notarized original of each Application for Payment, including lien waivers and similar attachments when required, along with **six (6)** copies. For Final Payment, **nine (9)** complete, signed and notarized copies shall be submitted.
  1. Transmit each copy with a transmittal form listing attachments and recording appropriate information related to the application, in a manner acceptable to the Architect.
- F. Applications for Payment:** Administrative actions and submittals, that must precede or coincide with submittal of the first Application for Payment and all subsequent Application for Payments including, but not limited to, the following items:
- G. Application for Payment at Substantial Completion:** Following issuance of the Certificate of Substantial Completion submit an Application for Payment form; use the form as required by the Owner. Present the required information on electronic media printout as applicable that include, but are not limited, to the following:
  1. List of Subcontractors and suppliers' name, FEIN/Social Security numbers, and Connecticut Tax Registration Numbers.
  2. List of principal suppliers and fabricators.
  3. Schedule of Values.
  4. Construction Manager's CPM Schedule (preliminary if not final).
  5. Schedule of principal products.
  6. Submittal Schedule (preliminary if not final).

7. List of Contractor's staff assignments.
8. List of Contractor's principal consultants.
9. Copies of all applicable permits.
10. Copies of authorizations and licenses from governing authorities for performance of the Work.
11. Proof that Subcontractors have been paid amounts included on the Construction Manager's Application for Payment within thirty (30) days after the Owner has paid the Construction Manager for the particular Application for Payment in accordance with Connecticut General Statute § 49-41a (a)(1).
12. Releases of Lien from Subcontractors with amounts included on the Construction Manager's Application for Payment when Construction Manager has been paid by the Owner for the particular Application for Payment but the Subcontractors have not been paid.
13. Proof that as-built documents are updated as required by Section 01 77 00- CMR "Closeout Procedures.
14. Initial as-built survey and damage report, if required.
15. Update the Construction Manager's Master Subcontract Agreement List" and submit copies all recently executed Subcontract Agreements in accordance with CGS § 4b-96.
  - 15.1 . The Construction Manager's Master Subcontract Agreement List" shall list all Subcontract Agreements in order of Guaranteed Maximum Price magnitude (from high to low) in the following format:

Construction Manager's Master Subcontractor Agreement List"				
Subcontractor Name	Minority Or Small Business Designation	Trade	Address	Guaranteed Maximum Price

**16. In accordance with CGS § 42-158j (b):**

Each payment requisition submitted shall include a statement showing the status of all pending construction change orders, other pending change directives and approved changes to the original contract or subcontract. Such statement shall identify the pending construction change orders and other pending change directives, and shall include the date such change orders and directives were initiated, the costs associated with their performance and a description of any work completed. As used in this section, "pending construction change order" or "other pending change directive" means an authorized directive for extra work that has been issued to a contractor or a subcontractor and identified by an official Change Order Number or Construction Change Directive Number assigned by the State of Connecticut.



**G. Application for Payment at Substantial Completion:** Following issuance of the Certificate of Substantial Completion submit an Application for Payment form; use the form as required by the Owner. Present the required information on electronic media printout as applicable that include, but are not limited, to the following:

1. This application shall reflect Certificates of Partial Substantial Completion issued previously for Owner occupancy of designated portions of the Work.
2. Administrative actions and submittals that shall precede or coincide with this application include, but are not limited to, the following:
  - 2.1 Occupancy permits and similar approvals.
  - 2.2 Warranties (guarantees) and maintenance agreements.
  - 2.3 Test/adjust/balance records.
  - 2.4 Maintenance instructions.
  - 2.5 Meter readings.
  - 2.6 Startup performance reports.
  - 2.7 Changeover information related to Owner's occupancy, use, operation, and maintenance.
  - 2.8 Final cleaning.
  - 2.9 Application for reduction of retainage and consent of surety.
  - 2.10 Advice on shifting insurance coverage.
  - 2.11 Final progress photographs.
  - 2.12 List of incomplete Work, recognized as exceptions to Architect's Certificate of Substantial Completion.

**H. Final Payment Application:** Administrative actions and submittals that must precede or coincide with submittal of the final Application for Payment include, but are not limited, to the following:

1. Completion of Project Closeout requirements.
2. Completion of list of items remaining to be completed as indicated on the attachment to the Certificate of Substantial Completion.
3. Ensure that unsettled claims will be settled.
4. Ensure that incomplete Work is not accepted and will be completed in accordance with a schedule prepared by the Construction Manager which is acceptable to the Owner.
5. Transmittal of required Project construction records to the Owner (including as-built documents specified in Section 01 77 00 "Closeout Procedures - CMR".
6. Certified property survey.
7. Proof that taxes, fees, and similar obligations were paid.
8. Removal of temporary facilities and services.
9. Removal of surplus materials, rubbish, and similar elements (Reference Section 01 74 19 "Construction Waste Management & Disposal - CMR".
10. Change of door locks to Owner's access.
11. The requirements of the Division 00 General Conditions - CMR and Supplementary Conditions for Final Acceptance, Final Completion, Final Inspection, and Final Payment.
12. Asbestos, lead or other hazardous material manifests.
13. Completion of "Building Contractor Reporting Form" as supplied by Department of Public Works, for all Construction Manager's Subcontractors, Vendors, Suppliers, etc. who work on the Contract. The form includes the following information:
  - a. Construction Manager / Subcontractor name.

- b. FEIN/Social Security Numbers
- c. Connecticut Tax Registration Numbers
- d. Type of work
- e. Name of business and address
- f. Remittance address.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

END OF SECTION 01 29 76 - CMR

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***Option 3***  
***Design-Build (D-B):***



*Example*  
**Section 00 52 23**  
**Design- Build Agreement**  
Page 1 of 36

# **Design-Build Agreement** *(Template)*

**Between**  
**State of Connecticut**  
**Department of Construction Services**

**Division of Design and Construction**  
**Fourth Floor, 165 Capitol Avenue**  
**Hartford, Connecticut 06106**

**And**

*(Insert Design-Builder's Name)*

**For**  
*(Insert Project Title)*  
*(Insert City/Town,)* **Connecticut**  
**Project No.: (Insert DCS Project Number) – DB**  
**Agreement No.: (Insert D-B Agreement Number)**  
*(Insert Month/ Day /Year)*

**AGREEMENT** made as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year of \_\_\_\_\_

**BETWEEN** the State of Connecticut, acting herein by Donald J. DeFronzo, its Acting Commissioner of the Department of Construction Services (the "Owner" or "Commissioner"), duly authorized, pursuant to Section 4b-24(4) of the Connecticut General Statutes, as revised.

and the Design-Builder:

This Agreement pertains to services to be performed in connection with the design and construction and related improvements as described herein of the following Project:

In consideration of the mutual agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Owner and Design-Builder agree as set forth below.

#### **TABLE OF ARTICLES**

1	DEFINITIONS AND INTERPRETATIONS
2	DATE OF COMMENCEMENT, SUBSTANTIAL COMPLETION , AND ACCEPTANCE OF THE WORK
3	CONTRACT PRICE
4	CHANGES IN THE WORK
5	PAYMENTS TO DESIGN-BUILDER
6	DESIGN-BUILDER'S RESPONSIBILITIES
7	OWNER'S RESPONSIBILITIES
8	CONTRACTORS AND SUBCONTRACTORS
9	INDEMNITY AND INSURANCE
10	TERMINATION
11	DISPUTES
12	ASSIGNMENT AND AMENDMENT
13	MISCELLANEOUS PROVISIONS
14	NOTICES

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**TABLE OF APPENDIXES TO THIS AGREEMENT (Template Examples)**

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A.	Project Schedule.....
B.	Design-Builder's Proposal.....
C.	Refinement Documents .....
D.	Designation of Project Manager.....
E.	Certificate of Compliance, Certificate of Substantial Completion, and Certificate of Acceptance ....
F.	Preliminary Schedule of Values .....
G.	Nondiscrimination and Affirmative Action Provisions, Executive Orders, Sexual Harassment Policy, Summary of State Ethics Laws, and Large State Government Contracts,.....
H.	Notice Addresses.....
I.	State Election Enforcement Commission Notice (Form 11).....
J.	Assignment of Copyright .....

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**ARTICLE 1 DEFINITIONS AND INTERPRETATIONS**

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**1.1 Definitions**

- 1.1.1** For purposes of this Agreement, the following words and terms shall have the meanings set forth below:
- 1.1.2** **Acceptance** means the full and final completion of all Work in accordance with the Contract Documents, including all punchlist items, to the satisfaction of the Owner, except as may be set forth in a Certificate of Acceptance.
- 1.1.3** **Acceptance Date** means the date on which the Design Builder achieves Acceptance. The Owner shall notify the Design-Builder in writing pursuant to Section 2.9 that Acceptance has been accomplished.
- 1.1.4** **Addendum** means a document issued by the Owner that modifies or clarifies the RFP.
- 1.1.5** **Agreement Amendment** is defined in Section 4.1 hereof.
- 1.1.6** **Applicable Laws** means any applicable or relevant federal, state, or local statutes, laws, codes, regulations, ordinances, orders, determinations, requirements, rules or rulings, including any Environmental Laws, and any judicial or administrative interpretations, orders or decrees with respect thereto.
- 1.1.7** **Business Day** means a Calendar Day other than Saturdays, Sundays and days designated as Connecticut state holidays on which banks in Connecticut are permitted to be closed.
- 1.1.8** **Calendar Day** means each day of the calendar.
- 1.1.9** **Certificate of Acceptance** means the certificate issued by the Owner pursuant to Section 2.9 in the form specified in Appendix E.
- 1.1.10** **Certificate of Compliance** means the certificate issued by the Design-Builder's Design Professional pursuant to Section 6.2 in the form specified in Appendix E.
- 1.1.11** **Certificate of Substantial Completion** means the certificate issued by the Owner pursuant to the provisions of Section 2.5 in the form specified in Appendix E.
- 1.1.12** **Clarification** means an interpretation of the Contract Documents that may result in minor changes to the Work not involving an adjustment to the Contract Price or the Project Schedule and not inconsistent with the intent of the Contract Documents, provided the Clarification is documented and approved in writing by both the Owner and Design-Builder.
- 1.1.13** **Construction Administrator** means a Person, under contract with or employed by the Owner. The Construction Administrator may be the Project Manager or assistant project manager, or an independent architect, consulting architect, consulting professional engineer or any other designee as authorized and identified by the Owner. The Construction Administrator does not have the authority to bind or otherwise make decisions for the Owner, as such authority is reserved to the Project Manager and the Owner.
- 1.1.14** **Construction Documents** means the architectural and engineering documents setting forth the complete design for the Project prepared by the Design Professional. Construction Documents include, but are not limited to, the Specifications, the Drawings and all modifications thereto. Construction Documents shall include all items appropriate or necessary for the proper execution and completion of the Work to the Owner's satisfaction. The Construction Documents shall describe the quality of construction materials, assemblies, and other information deemed necessary to adequately describe the Owner's requirements. The Construction Documents shall be prepared and sealed by the Design Professional as required by the State of Connecticut General Statutes.
- 1.1.15** **Contractor** means (i) a Person, other than a Design Professional, under direct contract with the Design-Builder responsible for performing the construction phase of the Work under this Agreement, or (ii) the Design-Builder where the Design-Builder is also the Person performing the construction phase of the Work.

- 1.1.16 **Contract Documents** means this Agreement, including the appendices attached hereto; the Request for Qualifications; the Request for Proposals; any Addenda to the RFP; the Design-Builder's Proposal; all of the Refinement Documents; all Addenda; all Clarifications; and all Agreement Amendments.
- 1.1.17 **Contract Price** is defined in Section 3.1.
- 1.1.18 **Critical Path** means the sequence of all critical tasks that have a significant impact on the completion of the Work.
- 1.1.19 **Design-Builder** is defined in the first paragraph of this Agreement.
- 1.1.20 **Design-Builder's Proposal** means the written Proposal and Drawings as described in Appendix B submitted by Design-Builder in response to the Request for Proposals.
- 1.1.21 **Design Professional** means a Connecticut licensed design professional, employed or contracted by the Design-Builder, who is responsible for all architectural, engineering and other design services to be performed in connection with the Project.
- 1.1.22 **Drawings** means that part of the Contract Documents and Construction Documents prepared by the Design Professional that graphically show the scope, extent, and character of the Work to be performed by Design-Builder.
- 1.1.23 **Environmental Laws** means any federal or state statute, law, code, rule, regulation, order, permit, or decree regulating or relating to the protection of human health or the environment, or imposing liability or standards of conduct concerning any Regulated Substance, hazardous, toxic, or waste substance, element, compound, mixture or material, as now or at any time hereafter in effect, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended, 42 U.S.C. § 9601 et seq.; the Emergency Planning and Right To Know Act, 42 U.S.C. § 11101 et seq.; the Endangered Species Act, 16 U.S.C. § 1531 et seq.; the Lead-Based Paint Exposure Reduction Act, 15 U.S.C. § 2681 et seq.; the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Solid Waste Disposal Act (including the Resource Conservation and Recovery Act) 42 U.S.C. § 6901 et seq.; the Hazardous Material Transportation Act, 49 U.S.C. § 1801 et seq.; the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 9601 et seq.; Clean Air Act, 42 U.S.C. § 7401 et seq.; the Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the River and Harbors Act of 1899, 33 U.S.C. § 401 et seq.; and all rules and regulations of the U.S. Environmental Protection Agency (EPA) and the Connecticut Department of Environmental Protection and the Connecticut Department of Health, including Titles 19 and 22a of the Connecticut General Statutes, or any other state, federal, or local department, board, or agency, or any other agency or governmental board or entity having jurisdiction over environmental or health and safety matters, as such may have been amended.
- 1.1.24 **Force Majeure** means any event which renders impossible, prevents, substantially or materially interrupts or delays the performance of an obligation of a party to this Agreement, if such event is beyond the reasonable control of such party and which, by the exercise of due diligence, such party would be unable to overcome, including: strikes, lockouts, sit-downs, material or labor restrictions by any governmental agency, shortages of material or labor, unusual transportation delays, riots, floods, explosions, earthquakes, fire, acts of the public enemy, wars, insurrections, terrorism, changes in Applicable Law, and the commencement and continued pendency of legal proceedings not brought by any party to this Agreement or any affiliate thereof and not based on any event or circumstance which constitutes a breach or default by such party of any obligations, covenants or agreements under this Agreement or which is otherwise within the reasonable control of such party, which legal proceedings restrain or enjoin the performance by such party of such obligation.
- 1.1.25 **General Conditions** mean the Owner's General Conditions as set forth in RFP Volume I.



- 1.1.26 **Hazardous Material** means any and all materials, chemicals, or other substances defined as hazardous, hazardous waste, Regulated Substances or toxic waste, or otherwise regulated or controlled pursuant to any of the Environmental Laws.
- 1.1.27 **Owner** is defined in the first paragraph of this Agreement.
- 1.1.28 **Person** means any natural person, corporation, partnership, limited liability company, association, trust, other business entity or governmental unit.
- 1.1.29 **Project** means the design and construction of the new at ( ), ( ), Connecticut, pursuant to this Agreement, including the appendices hereto, as described in the Contract Documents.
- 1.1.30 **Project Manager** means the individual, as identified in Appendix D, or such individual successor, employed by the Owner and designated and authorized by the Commissioner, to represent the Owner for the purposes of this Agreement.
- 1.1.31 **Project Schedule** means the schedule for the completion of the design and construction of the Work, indicating proposed activity sequences and durations, milestone dates, and the dates of Substantial Completion and Acceptance. The Project Schedule shall be developed in accordance with Section 2.4 and is attached hereto as Appendix A.
- 1.1.32 **Refinement Documents** means meeting notes, drawings, sketches and other documentation developed and approved by the Owner and Design-Builder to clarify and refine Design-Builder's Proposal, all of which are now or shall hereafter be included or described in Appendix C.
- 1.1.33 **Regulated Substances** means any (a) chemical, substance, material, or waste that is designated, classified, or regulated as "hazardous waste," "hazardous material," "hazardous substance," "Connecticut regulated waste," "toxic substance," "radioactive material," "lead based paint or lead containing materials," or words of similar import, under any applicable Environmental Law; (b) petroleum, petroleum hydrocarbons, petroleum products, petroleum substances, crude oil, and components, fractions, derivatives, or by-products thereof; (c) asbestos or asbestos-containing material (regardless of whether in a friable or non-friable condition) or polychlorinated biphenyls; and (d) any substance that, whether by its nature or its use, is subject to regulation under any applicable Environmental Law then in effect or for which a governmental entity requires remedial action at the property or any areas emanating there from.
- 1.1.34 **Representatives** means a Person's affiliates, and its or their directors, members, managers, partners, officers, employees, agents, consultants and advisors, provided that the Design-Builder shall not constitute a Representative of the Owner.
- 1.1.35 **Request for Proposal or "RFP"** means the Request for Proposals, issued by the Owner, dated ( ), with respect to the Project and any Addenda thereto.
- 1.1.36 **Request for Qualifications or RFQ** means the Request for Qualifications issued by the Owner, dated ( ), with respect to the Project.
- 1.1.37 **Schedule of Values** means a document furnished by the Design-Builder to the Owner stating the portions of the Contract Price allocated to the various portions of the Work, which is to be used for reviewing the Design-Builder's applications for payment.
- 1.1.38 **Site** means lands or areas being furnished by the Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto.
- 1.1.39 **Specifications** means that part of the Contract Documents approved by the Owner consisting of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
- 1.1.40 **Subcontractor** means any Person performing a portion of the Work or supplying materials or equipment for the Work pursuant to a direct contract with the Contractor.

- 1.1.41 **Substantial Completion** is defined in Section 2.5 hereof.
- 1.1.42 **Substantial Completion Date** is defined in Section 2.3 hereof.
- 1.1.43 **Threshold Limit Building** means new structures or additions as defined in Section 29-276b, of the Connecticut General Statutes, as revised.
- 1.1.44 **Work** means the design, construction and other services required by the Contract Documents, and including all labor, materials, equipment, documentation and services provided or to be provided by the Design-Builder to fulfill the Design-Builder's obligations to design and construct the Project.

## 1.2 Interpretations

- 1.2.1 References to a "Section", "Sections", "Article", or "Articles" herein refer to this Agreement unless otherwise stated.
- 1.2.2 Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.
- 1.2.3 Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or index of schedules and exhibits appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.
- 1.2.4 Words such as "hereunder", "hereto", "hereof" and "herein" and other words of similar import shall, unless the context requires otherwise, refer to the whole of this Agreement and not to any particular article, section, subsection, paragraph or clause hereof.
- 1.2.5 A reference to "including" means including without limiting the generality of any description proceeding such term.
- 1.2.6 Any reference to any statute, law or regulation includes all statutes, laws or regulations amending, consolidating or replacing the same from time to time, and a reference to a law or statute includes all regulations, codes or other rules issued or otherwise applicable under such law or statute unless otherwise expressly provided in such law or statute or in this Agreement. This rule of interpretation shall be applicable in all cases notwithstanding that in some cases specific references in this Agreement render the application of this rule unnecessary.
- 1.2.7 In determining the "reasonableness" of the granting or denial of any approval, consent, waiver, acceptance, or concurrence of any party hereto, the Owner shall be entitled to consider matters of public policy, as well as business and financial considerations.
- 1.2.8 All notices to be given hereunder shall be given in writing (whether or not so specified in a particular provision of this Agreement) within a reasonable time unless otherwise specifically provided.
- 1.2.9 Whenever any calculation or valuation may be made for any purposes hereunder and the method or manner of such calculation or valuation is not provided for in this Agreement, it shall be done in accordance with generally accepted accounting principles consistently applied or in such other manner as may be mutually agreed by the parties, unless otherwise required by Applicable Laws.
- 1.2.10 Each Exhibit, Appendix, and any other document referred to in this Agreement shall be considered a part of this Agreement as if fully set forth herein.

**ARTICLE 2 DATE OF COMMENCEMENT, SUBSTANTIAL COMPLETION, AND ACCEPTANCE OF THE WORK**

- 2.1 Date of Commencement** – The Date of Commencement of the Contract Time shall be (1) ( ) [fill in here] or (2) shall be as specified in a written Notice to Proceed issued to the Design-Builder by the Owner.
- 2.2 Contract Time** - The Contract Time shall be measured in Calendar Days from the Date of Commencement.
- 2.3 Substantial Completion Date** - The Design-Builder shall (1) attain Substantial Completion of the Work not later than ( ) [fill in date here] or (2) attain Substantial Completion of the Work not later than ( ) Calendar Days from the Date of Commencement.
- 2.4 Completion**
- 2.4.1** The Work to be performed under this Agreement shall be carried out by the Owner and the Design-Builder in accordance with the Project Schedule, and the Work shall be performed in accordance with the terms and conditions of this Agreement. TIME IS OF THE ESSENCE with respect to the obligations of Design-Builder hereunder.
- 2.4.2** Substantial Completion shall be accomplished no later than the Substantial Completion Date set forth above in Section 2.3. The Project Schedule, as it may be revised from time to time, shall be deemed to be a part of this Agreement, as if fully set forth herein. The Project Schedule shall be prepared and updated by Design-Builder, subject to the approval of the Owner. The Project Schedule shall set forth a detailed precedence-style, critical-path method format that (1) incorporates all critical dates for Substantial Completion; (2) provides a graphic representation of all significant activities and events that will occur during performance of the Work; (3) identifies each phase of design, construction, and occupancy; and (4) sets forth dates that are critical for ensuring the timely and orderly completion of the Work, in accordance with the requirements of this Agreement and Contract Documents and Construction Documents (hereinafter referred to as "Milestone Dates"). Milestones Dates must be clearly indicated and sequentially organized to identify the Critical Path. Design-Builder shall monitor the progress of the Work for conformance with the requirements of the Project Schedule, including, without limitation, specifically noting whether or not Milestone Dates are being met, and shall promptly advise the Owner of any delays or potential delays. The Project Schedule shall be updated monthly to reflect actual conditions versus the original Project Schedule (sometimes hereinafter referred to as "progress reports"), or on a more frequent basis if requested by the Owner. The Project Schedule shall be in Primavera Systems, Inc., Format, P3, as approved by the Owner (or such other format as the Owner shall request). An updated Project Schedule shall be submitted with each application for payment. No payment will be released until any revisions to the Project Schedule are reviewed and approved by the Owner in writing.
- 2.5 Substantial Completion.** "Substantial Completion" of the Project occurs when the progress of the Work is complete so that the Owner can occupy or utilize the Project for its intended use; when the following requirements have been satisfied, and the Owner issues a Certificate of Substantial Completion:
- 2.5.1** A certificate (or certificates) of occupancy or, at the sole discretion of the Owner, a temporary certificate (or certificates) of occupancy for all, or an Owner designated portion, of the Work has been issued by the appropriate governmental authority;
- 2.5.2** All required training programs are complete, and all maintenance agreements and final certificates are in effect;
- 2.5.3** All warranties, guarantees and bonds are in effect;
- 2.5.4** All lien waivers have been submitted for all Work completed and to be paid; and
- 2.5.5** A punch list has been established and approved by the Owner;

- 2.5.6** Submission of the Certificate of Compliance, Part 2, by Design-Builder, which certificate Design-Builder shall have prepared and delivered to the Owner, shall constitute a certification by Design-Builder that all Work has been performed in accordance with this Agreement, the Contract Documents, the Construction Documents and all Applicable Laws, and that all statements contained in the Certificate of Compliance are true and correct as of the date it is delivered to the Owner. Design-Builder shall give to the Owner at least a thirty (30) day advance notice of the submission of a Certificate of Compliance. The Owner shall be entitled to conclusively rely on the accuracy of the statements and information set forth in the Certificate of Compliance and provided therewith. See Section 6.2.14, **Certificate of Compliance**, for more information related to the Certificate of Compliance.
- 2.5.7** Upon Substantial Completion, the Owner shall indicate its general acceptance of the Work by dating and signing the Certificate of Substantial Completion in the form attached hereto as Appendix E.

**2.6 Delay**

If Design-Builder wishes an extension of the number of Calendar Days to attain Substantial Completion it shall give the Owner written notice within fourteen (14) Calendar Days of when the Design-Builder becomes aware or should have become aware of the act or occurrence which caused the delay. Such request shall be granted only by means of an Agreement Amendment and only in cases where either:

- 2.6.1** Force Majeure exists that warrants a change in the established Substantial Completion Date;
- 2.6.2** the Owner has failed to perform its obligations pursuant to Article 7, Owner's Responsibilities, Section 7.1, and such failure warrants a change in the established Substantial Completion Date, or
- 2.6.3** the Owner modifies the scope of Work or the number of Calendar days to attain Substantial Completion by an Agreement Amendment.
- 2.6.4** In the event the Work is delayed by Force Majeure, the performance of such Work, in the discretion of the Owner, may be excused for the period of the delay caused by such Force Majeure, and, with the written approval of the Owner, established Substantial Completion Date may be extended accordingly on a day for day basis. Each of the Design-Builder and the Owner shall promptly notify the other in writing if such party believes that such an event of Force Majeure has occurred, and again when such party believes such event has ceased. Any change in the Project Schedule shall be at no cost to the Owner and not subject the Owner to a delay claim.

**2.7 Liquidated Damages – Substantial Completion:**

If the Design-Builder shall fail to achieve Substantial Completion of the Work by the Substantial Completion Date, and such delay is not otherwise excused under this Agreement, then the Design-Builder does hereby agree, as a part consideration for the awarding of this Agreement, to

pay to the Owner, as liquidated damages and not as a penalty, the sum of ( ) Dollars (\$ ( ) ) per day for each Calendar Day beyond the

Substantial Completion Date that the Design-Builder fails to achieve Substantial Completion. The parties to this Agreement acknowledge and agree that the actual damages that are to be expected as a result of the neglect, failure, or refusal of the Design-Builder to substantially complete the Project by the established Substantial Completion Date are uncertain in amount or extremely difficult to determine. Accordingly, the parties to this Agreement do intend and in fact now agree to liquidate damages in advance and stipulate that the amount set forth in this Section is reasonable and an appropriate remedy and is intended to constitute compensatory damages and does not constitute a penalty of any kind. The parties understand and agree that, by including a provision for liquidated damages in this Agreement, or in pursuing any relief pursuant to such provision:

- 2.7.1** the parties do not intend to set a price for the privilege not to perform;
- 2.7.2** the availability of liquidated damages may not be relied upon as a basis for argument that the Owner has an adequate remedy at law; and
- 2.7.3** the remedies available to the Owner under this Agreement are cumulative and not exclusive.

**2.8 Liquidated Damages – Post Substantial Completion:**

If the Design-Builder shall fail to complete all of the Work required for Acceptance of the Work within ninety (90) Calendars Days of the actual Substantial Completion Date then the Design-Builder does hereby agree, as a part consideration for the awarding of this Agreement, to pay to the Owner, as liquidated damages and not as a penalty, the sum of ( ) Dollars (\$) ( ) per day for each Calendar Day beyond the ninety (90) Calendars Days of the actual Substantial Completion Date until the Design Builder achieves Acceptance. The parties to this Agreement acknowledge and agree that the actual damages that are to be expected as a result of the failure of the Design-Builder to complete all of the Work required for Acceptance of the Work within ninety (90) Calendars Days of the actual Substantial Completion Date are uncertain in amount or extremely difficult to determine. Accordingly, the parties to this Agreement do intend and in fact now agree to liquidate damages in advance and stipulate that the amount set forth in this Section is reasonable and an appropriate remedy and is intended to constitute compensatory damages and does not constitute a penalty of any kind. The parties understand and agree that, by including a provision for liquidated damages in this Agreement, or in pursuing any relief pursuant to such provision:

- 2.8.1 the parties do not intend to set a price for the privilege not to perform;
- 2.8.2 the availability of liquidated damages may not be relied upon as a basis for argument that the Owner has an adequate remedy at law; and
- 2.8.3 the remedies available to the Owner under this Agreement are cumulative and not exclusive.

## 2.9 Acceptance of the Work:

Acceptance of the Work occurs when the Owner issues a Certificate of Acceptance to the Design-Builder in accordance with the requirements of Section 4-61(b)(2), Connecticut General Statutes as revised.

- 2.9.1 **Certificate of Acceptance:** The Certificate of Acceptance shall designate the Owner's and Design-Builder's responsibilities for completion of all incomplete Work, if any incomplete work remains, as required by the Agreement.
- 2.9.2 **Incomplete Work:** In those instances where the Design-Builder has failed to complete all of the Work required by this Agreement and all referenced documents, the State reserves the option to complete all or part of the incomplete Work as designated in the Certificate of Acceptance. The issuance of a Certificate of Acceptance is not a determination, or acknowledgement, or acceptance by the State of Connecticut of the following:
  - 2.9.2.1 Incomplete Work as required by this Agreement;
  - 2.9.2.2 Workmanship, warranty requirements or quality of the Work as required by this Agreement.
- 2.9.3 **Responsibility of Design-Builder** – Prior to Acceptance, the Design-Builder shall provide to the Owner evidence that (i) the Work has been performed as required by the Contract Documents; (ii) the conditions to payment specified in Article 5 of this Agreement and the RFP are satisfied and, in particular, that all payrolls, materials, bills and other indebtedness of Design-Builder and any Contractor, Subcontractor and Design Professional relating to the Project have been paid or otherwise satisfied; (iii) all appropriate lien waivers have been obtained; and (iv) any notice of lien previously filed has been discharged and released on the land records. At Acceptance, any interest of Design-Builder or any other Person in the Work will be transferred to the Owner free and clear of all liens, encumbrances, conditions, restrictions and claims. At Acceptance, and before final payment, which when added to all previous progress payments will equal the contract Price, Design-Builder will provide or cause to be provided all warranties, guarantees, bonds, and documents necessary to convey to the Owner any interest of Design-Builder or any other Person in the Work.
- 2.9.4 **Notification** – At Design-Builder's request and upon satisfaction of the conditions specified in Section 2.9, the Owner shall notify Design-Builder of Acceptance.

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**ARTICLE 3 CONTRACT PRICE**

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- 3.1 The "Contract Price" is ( ) Dollars and No Cents. ( \$ ( ) ) and represents the price to be paid by the Owner to the Design- Builder for the Project on a total cost basis when complete and accepted by the Owner. The Contract Price shall be paid in accordance with Article 5, PAYMENTS TO DESIGN-BUILDER. Changes in the Contract Price may only be increased or decreased by an Agreement Amendment. The Contract Price includes the costs, fees, and expenses of the Project and the performance by Design-Builder of all of its duties and obligations pursuant to this Agreement with respect to the Project.
- 3.2 **Allocation of Risks Included**  
Except as otherwise expressly provided in this Agreement, the Contract Price takes into account all risks whatsoever relating to the Project, surface and subsurface conditions including but not limited to, soil, utility conflicts, design, architectural, engineering, demolition, construction, and delay risks.
- 3.3 **Delay.** The Design-Builder shall not be entitled to an increase in the Contract Price for delay due to Owner ordered modifications or any other circumstances for the period of time between the Design-Builder's earlier completion of the Work and the Substantial Completion Date. Excluded costs include, but are not limited to, delay claims for extended home or field office costs and supervisory and management costs incurred in the performance of the Work. Early completion of the Work shall not merit additional compensation. The Design-Builder acknowledges that the Contract Price includes and anticipates any and all delays, whether avoidable or unavoidable, from orders which may issue from any court, governmental agency or Force Majeure, and that such delays shall not, under any circumstances, be construed as compensable delays. No damages for delay or time extensions will be granted, even if Owner approvals deviate from the Project Schedule.

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**ARTICLE 4 CHANGES IN THE WORK**

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- 4.1 **Agreement Amendments**  
Any changes in the Terms and Conditions of this Agreement or in the Work resulting in an adjustment in the Contract Price or Substantial Completion Date shall be memorialized in an Agreement Amendment. Each Agreement Amendment shall specify any change in the Contract Price, Project Schedule or Substantial Completion Date and will not be effective until execution by the Owner and Design-Builder, and approved by the State Properties Review Board and the Office of the Attorney General in writing.
- 4.1.1 Each Agreement Amendment shall specify any change in the following:
- 4.1.1.1 a change in the Work;
  - 4.1.1.2 the amount of the adjustment, if any, in the Contract Price;
  - 4.1.1.3 the extent of the adjustment, if any, in the Contract Time.
- 4.2 **Agreement Amendment Required.**  
Except for Clarifications, or as may be otherwise expressly provided in this Agreement, neither the Design-Builder nor the Owner will make any changes to the Project or with respect to the Work except under an executed Agreement Amendment.
- 4.3 **Payment.**  
Any changes in the Contract Price resulting from an Agreement Amendment shall be adjusted upon submittal of an Application For Payment by the Design-Builder in the manner prescribed under Article 5.

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**ARTICLE 5 PAYMENTS TO DESIGN-BUILDER**

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**5.1 Payments**

- 5.1.1** The Owner will make progress payments to Design-Builder in accordance with the General Conditions. Retainage, as defined in the RFP, will be calculated at ten percent (10%) of the cost of the Work as set forth in each Application for Payment. Retainage will be released and paid to Design-Builder by the Owner upon satisfaction of the requirements for final payment stated in the RFP. The cost of the Design Professional's services and the cost of permits and approvals will not be subject to Retainage. The Design-Builder shall be required to separately account on each Application for Payment the fee of the Design Professional with the percentage of completion for the phase of design being invoiced at that time.
- 5.1.2** Notwithstanding any provisions in this Agreement to the contrary, the Owner shall have the sole discretion to reduce the Retainage from ten percent (10%) to five percent (5%). The decision of the Owner to reduce the Retainage percentage will be based upon, but shall not be limited to, the following:
- 5.1.2.1** The Design-Builder's timely submission of an appropriate and complete Project Schedule and Schedule of Values in compliance with this Agreement. Attached hereto as Appendix F is a Preliminary Schedule of Values that will be revised as set forth in the General Conditions.
  - 5.1.2.2** The Design-Builder's timely and proper submission of all submissions required by the Contract Documents including, but not limited to, shop drawings, material certificates and material samples and the prompt resolution of the Owner's comments on the submitted material.
  - 5.1.2.3** The Design-Builder's provision of proper and adequate supervision and home office support of the Project and any Contractor or Subcontractor Work resulting in coordinated progress and proper quality control for the Work.
  - 5.1.2.4** The Work completed to date has been installed or finished in an acceptable manner that is satisfactory to the Owner.
  - 5.1.2.5** The progress of the Work is consistent with the Project Schedule.

- 5.2 Title to Work.** Prior to Acceptance, title to the Work shall pass to the Owner upon acceptance of the Work and payment having been made to Design-Builder in accordance with Sections 5.1 and 5.4 of this Agreement. At Acceptance, title to the balance of the Work shall pass to the Owner in accordance with this Agreement.

- 5.3 Lien Waivers.** Lien waiver certificates, in a form and substance satisfactory to the Owner, shall be submitted by Design-Builder with all progress payment requests certifying that the Project is free and clear of all liens and any other encumbrance for all Work completed to the extent of payments received by Design-Builder to date. Final Lien waivers shall be provided by Design-Builder at Acceptance in a form and substance satisfactory to enable the title insurance company providing the policy of title insurance for the Project to issue appropriate endorsements that, upon completion of the Project by Design-Builder and acceptance and occupancy of the Project by the Owner, the property is free and clear of all vendors, mechanics', laborers', material men's, or other similar liens based on furnishing materials or labor to the Project. If, as a result of any Work, the Project or any part thereof shall become subject to any such vendors', mechanics', laborers', material men's, or other similar liens, Design-Builder shall cause the same to be discharged and released on the land records at its sole cost and expense prior to Substantial Completion, or if such a lien is not filed until after Substantial Completion, then within seven (7) Calendar Days after Design-Builder becomes aware of the lien(s). If a Contractor or Subcontractor refuses to furnish a release or lien waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Design-Builder shall discharge such lien promptly upon demand of the Owner. If Design-Builder shall fail to discharge such lien within thirty (30) days of such demand, the Owner may take steps as are necessary or appropriate to discharge such lien and Design-Builder shall immediately upon demand pay to the Owner all money that the Owner is compelled to pay in discharging such lien, including all costs and reasonable attorney's fees.

**5.4 Acceptance and Review of Work**

- 5.4.1** Design-Builder shall submit to the Owner the documents set forth in the General Conditions as a condition for receiving any progress payments.
- 5.4.2** Notwithstanding any other provision in this Agreement, the Owner may, at any time and from time to time, deliver notice to the Design-Builder rejecting any portion or all of the Work performed or caused to be performed by the Design-Builder and not in accordance with the requirements of the Contract Documents and General Conditions.
- 5.4.3** Design-Builder shall promptly correct Work rejected by the Owner, whether or not fabricated, installed, or completed in accordance with the requirements of the Contract Documents and / or General Conditions. Design-Builder shall bear the costs of correcting such rejected Work, including additional testing and inspections and compensation for any additional architectural design and/or engineering services and expenses made necessary thereby. Similarly, Design-Builder shall bear the cost of correcting destroyed or damaged Work caused by Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

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**ARTICLE 6 DESIGN-BUILDER'S RESPONSIBILITIES**

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**6.1 General Representations and Warranties of Design-Builder**

- 6.1.1** The Design-Builder represents and warrants that it is an independent contractor, competent, knowledgeable, and familiar with the type of work contemplated by this Agreement. The Design-Builder agrees and understands that neither it nor any of its Representatives may act in the name of the Owner except and unless specifically authorized in writing by the Owner to do so. The Design-Builder further represents and warrants that it accepts a fiduciary role and responsibility with respect to the Owner and that it owes the Owner the duties of good faith, trust, confidence, and candor. The Design-Builder will, to its best abilities, act in the best interests of the Owner in accomplishing the timely completion of the Work. The Design-Builder shall furnish project management, design, and construction administration and construction services and use the Design-Builder's best efforts to perform the Project in an expeditious manner consistent with the interests of the Owner.
- 6.1.2** Design-Builder represents and warrants that it has, as a part of its business organization or in its employ or under contract, the following:
- 6.1.2.1** project management staff with the professional competency and skills to provide administrative, cost control, budget control, and scheduling services for the Project;
- 6.1.2.2** Design Professionals with the professional experience, learning, skill, ability and competency as is ordinarily possessed by other members of its profession, including all required licenses and registrations in the State of Connecticut to design the Project and provide all design related services; and
- 6.1.2.3** Contractors with the competency, skills and all required licenses in the State of Connecticut to construct the Project in accordance with the Contract Documents and Construction Documents.
- 6.1.3** Design-Builder represents, acknowledges, and warrants good and marketable title to and ownership of all the Work, whether incorporated in the Project or held in storage on or off the Site, and that immediately upon any part of the Work being completed and paid for in accordance with this Agreement, such title shall vest in the Owner.
- 6.1.4** Design-Builder represents and warrants that it has taken such steps as it has deemed necessary to ascertain the nature and location of the Project and the general and local conditions that affect the Project or the cost thereof, and has examined the Site, and the obstacles that may be encountered and all other conditions having a bearing upon the performance of the Project.



**6.1.5** Design-Builder represents, warrants and covenants as follows:

- 6.1.5.1** it is an entity duly organized and validly existing under the laws of the state of its organization with full power and authority to conduct its business as presently conducted and as contemplated by this Agreement, and to enter into and perform its obligations under this Agreement;
- 6.1.5.2** neither the organizational documents of Design-Builder or any Applicable Laws in any way prohibit, limit or otherwise affect the right or power of Design-Builder to enter into and perform all of the terms and conditions of this Agreement and the Contract Documents and to consummate the transactions contemplated thereby, and Design-Builder is not a party to or bound by any material contract, agreement, indenture, trust agreement, note, obligation or other instrument which would prohibit or limit the same. No consent, authorization or approval of, or other action by, and no notice to or filing with any governmental agency or other person is required for the proper execution, delivery and performance by Design-Builder of this Agreement or any of the Contract Documents or the consummation of any of the transactions contemplated thereby, except for such approvals as have already been obtained;
- 6.1.5.3** the execution and delivery of this Agreement by Design-Builder has been duly and validly authorized by all necessary action. This Agreement is a legal, valid and binding obligation of Design-Builder, enforceable against Design-Builder in accordance with its terms; and
- 6.1.5.4** Design-Builder shall maintain financial resources, including contributed or accumulated capital, sufficient to meet its obligations, including its obligations under this Agreement, as the same become due.

**6.2** General Duties

- 6.2.1** Unless otherwise provided in the Contract Documents, the Design-Builder shall provide and pay for all professional services, labor, materials, equipment, transportation, construction, resources, work, and services necessary or incidental to completing the Work in a proper and timely manner in accordance with the Contract Documents and Applicable Laws.
- 6.2.2** The Design-Builder shall supervise and direct the Work using diligent skill and attention. The Design-Builder shall be responsible for and shall coordinate all construction means, methods, techniques, sequences, and procedures.
- 6.2.3** The Design-Builder shall at all times enforce strict discipline and good order among its Contractors, Subcontractors and Design Professional performing the Work, and shall not employ or permit the employment of unfit persons or persons not skilled in the task assigned to them.
- 6.2.4** Where work is required within a specially secured controlled access environment, work shall be performed by personnel who have passed a security screening.
- 6.2.5** The Design-Builder is responsible to the Owner for the acts and omissions of the Design Professional, the Contractor, Subcontractors, and their respective Representatives and for any other of its own Representatives and other Persons under its control and direction.
- 6.2.6** Design-Builder shall not use or occupy the Project or the property where the Project is located contrary to any statute, rule, order, ordinance, requirement, or regulation applicable thereto, or in any manner that would cause the value or the usefulness of the Project to be diminished or would cause a public nuisance or waste or contamination of the site.

- 6.2.7 Design-Builder agrees for itself and shall require each of its Contractors, Subcontractors and Design Professional to maintain complete accounting records and controls (including detailed support for all cost allocations), on an "open book basis" whereby, during normal business hours, the Owner, the Project Manager, the Owner's independent auditor, the Comptroller of the State of Connecticut and the Auditors of Public Accounts can review, copy, verify and audit all records and other financial data relating to the Project and the allocation of costs and expenses between the parties, or for any proper purpose, including verification of performance pursuant to this Agreement and the other Contract Documents, and compliance with Applicable Laws. Arrangements shall be made for access to and providing of all such records and data stored in electronic form. Without limiting the immediately preceding sentence, Design-Builder shall maintain and make available to the Auditors of Public Accounts all books and records required in order for the Auditors of Public Accounts to perform the duties and functions assigned to the Auditors of Public Accounts pursuant to Chapter 23 of the Connecticut General Statutes. Design-Builder shall preserve all such records for a period of not less than seven (7) years after the final payment of the Contract Price due hereunder or longer if required by Applicable Law.
- 6.2.8 The Design-Builder, promptly and in accordance with time limits set by the Owner, shall answer the Construction Administrator's and the Project Manager's questions and provide the Construction Administrator and the Project Manager with the requested Project information.
- 6.2.9 The Design-Builder shall advise and assist the Owner with the preparation of all applications for permits or utilities or other matters necessary for the construction and operation of the Project and which matters are the responsibility of the Owner pursuant to the RFP. See Volume #1, Section 00 24 19.1 Project Information as set forth in the RFP for additional detail for this Project.
- 6.2.10 The Design-Builder shall provide to the Project Manager a list of contractors, and vendors whose services may be required in the purchasing of materials and services for the Work.
- 6.2.11 The Design-Builder shall work with the Project Manager to develop a procedure for the submission of the design documents prepared by the Design Professional for the review of the Owner. See Volume #1, Section 00 24 19.1 Project Information and Section 01 00 00.1 General Requirements as set forth in the RFP for additional detail for this Project.
- 6.2.12 Design-Builder acknowledges and represents that it has received and completely reviewed the RFP, any Addenda, Refinement Documents, Applicable Laws and other requirements of the Owner with respect to the Project and any modifications thereto as agreed to by the Owner and Design Builder in writing and that all Work shall be performed in accordance with the Applicable Laws.
- 6.2.13 The Design-Builder shall submit for review by the Owner a Project Schedule within sixty (60) days after the date of this Agreement, utilizing a full-featured software package in a form satisfactory to the Construction Administrator and the Owner, showing milestone dates for receipt and approval of pertinent information relative to design, dates of design coordination meetings, preparation and processing of shop drawings and samples, and delivery of materials or equipment requiring long lead-time procurement, the Owner's occupancy requirements showing portions of the Project having occupancy priority, and the dates of Substantial Completion and Acceptance. It should also include the dates for commencement of the Work, including the coordination of mechanical, plumbing, and electrical disciplines, as well as coordination of the various subdivisions of the Work within the Contract Documents. Milestones must be clearly indicated and sequentially organized to identify the Critical Path. The Design-Builder shall provide the Construction Administrator and the Project Manager with monthly updates of the Project Schedule indicating complete activities and any changes in sequencing or activity durations, including Clarifications, provided that in no event shall the Substantial Completion Date be extended except as expressly provided herein.

**6.2.14 Certificate of Compliance**

**6.2.14.1** For Threshold Limit Buildings, the Design-Builder shall complete and submit PART 1 of the Certificate of Compliance with the tracings and masters to the Owner and certify that the documents have been designed in accordance with the current and applicable building and fire safety codes. Prior to occupancy of the building, the Design-Builder shall complete and submit PART 2 of the Certificate of Compliance to the Owner. The Commissioner of the Department of Construction Services is not required to sign the Certificate of Compliance for buildings that equal or exceed the threshold limit as defined in Section 29-276b of the Connecticut General Statutes.

**6.2.14.2** For Non-Threshold Limit Buildings, the Design-Builder shall complete and submit PART 1 of the Certificate of Compliance with the tracings and masters to the Owner and certify that the documents have been designed in accordance with the current codes. Prior to occupancy of the building, the Design-Builder shall complete and submit PART 2 of the Certificate of Compliance to the Project Manager.

**6.3 Design Responsibilities**

**6.3.1** Design-Builder shall furnish all the design, architectural and engineering services, surveying services, and permitting including, but not limited to, testing, subsurface borings, and geo-technical data, necessary to prepare and furnish Drawings and Specifications required to complete the Work. The Design-Builder has examined the Site and has determined that the Site meets all requirements for development of the Project including, but not limited to, those related to public utilities such as electric, telephone, storm, sewer, water, etc.; and has concluded that there will be no claims for Site conditions above and below grade level.

**6.3.2** Design-Builder shall provide the design of the Project, taking into account the needs and objectives of the Owner as set forth in this Agreement. In the event that peer review is required, the Design-Builder is responsible for insuring the coordination of the design with the Owner. Design-Builder shall provide the necessary Construction Documents as required for the Project in accordance with all Applicable Laws.

**6.3.3** The Owner shall review and approve or take other appropriate action upon the Design-Builder's submittals, including but not limited to design development documents and Construction Documents, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Owner's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Design-Builder, but in any event the Owner shall have no less than fourteen (14) business days for each such review. The Owner's review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the sole responsibility of the Design-Builder as required by the Contract Documents.

**6.3.4** Upon review of the Design Development documents, Construction documents, or other submittals required by the Contract Documents, the Owner shall take one of the following actions:

**6.3.4.1** Determine that the documents or submittals are in conformance with the Contract Documents and approve them.

**6.3.4.2** If the documents or submittals are in conformity with the Contract Documents, the Owner shall have the ability to provide Owner's comments on the schematic and design development submittals. These comments shall be incorporated into the Construction Documents without any change to the contract price or schedule. The Owner's comments shall not increase the Gross Square Feet area of the facility nor change the level of the finishes. The Design-Builder must notify the Project Manager in writing of any Owner comments that the Design-Builder considers to be outside of the scope of work within two weeks after receiving the Owner comments.

- 6.3.4.3** Determine that the documents or submittals are not in conformity with the Contract Documents and reject them.
- 6.3.4.4** Determine that the documents or submittals are not in conformity with the Contract Documents but accept them and request changes in the documents or submittals, without additional compensation or Contract Time for the Design-Builder, which shall be implemented by an Agreement Amendment.
- 6.3.5** Approval by the Owner shall not relieve Design-Builder of responsibility for any error, inconsistency, defect or omission in the design, Drawings or Specifications for the Project, including those relating to the Americans with Disabilities Act. If such error, inconsistency, defect or omission is discovered, Design-Builder shall revise all appropriate Drawings, Specifications, and other design documents to correct such error, inconsistency, defect or omission and immediately upon becoming so aware, shall change, alter, and modify the Project accordingly, all with no time extension and at no cost to the Owner. The Owner shall have no obligation to investigate for the purpose of becoming aware of any such error, inconsistency, defect or omission.
- 6.3.6** The Design-Builder shall integrate the design time into the Project Schedule. The Design-Builder shall monitor the Design Professional's compliance with the Project Schedule and shall coordinate and expedite the flow of information between the Owner, the Design Professional, and the Construction Administrator. The Design-Builder shall be responsible to the Owner for ensuring that the Construction Documents prepared by the Design Professional are consistent with all Project needs and requirements, including as to constructability, scheduling, time of construction, clarity, consistency, cost, and coordination of documentation.
- 6.3.7** It is the responsibility of the Design-Builder to provide Construction Documents that conform to applicable building codes, zoning codes, laws, regulations and generally accepted construction industry standards. The Design Professional shall affix its signature, date, and seal to the Construction Documents in accordance with the requirements of the State of Connecticut. The Design Professional shall insert the following statement on the cover sheet of the Drawings.
- To the best of my knowledge, information and belief, the plans, specifications and addenda comply with the applicable building codes.*
- 6.3.8** The Design-Builder warrants to the Owner that its design is provided for the Project consistent with sound design principles commonly used by design professionals under similar circumstances, and the resulting design is constructible by a qualified contractor using appropriate construction methods.
- 6.4 Construction Responsibilities**
- 6.4.1** Except as may otherwise be provided in the Contract Documents for those responsibilities set forth in Article 7 Owners Responsibilities hereof, which the Owner has agreed to undertake, the Design-Builder shall execute all Work and assume all responsibilities in regard to the construction of the Project and performance of the Work including, without limitation, (i) obtaining and paying for all utility services, utility charges and sewer charges required for construction of the Project; (ii) obtaining and paying for all necessary authorizations, permits, and approvals required for construction and occupancy of the Project including, without limitation, all Certificates of Occupancy and the Certificate of Substantial Completion ; (iii) satisfying all quality control, testing and inspections, record keeping, and reporting requirements; (iv) preparing, maintaining, and furnishing all Construction Documents and Clarifications; and (v) making available appropriate Representatives to attend regular progress meetings with the Owner, the Contract Administrator and other Persons identified by the Owner. Design-Builder shall also assume all incidental and related responsibilities applicable to the foregoing which may not be specifically enumerated in the Contract Documents.

- 6.4.2 Design-Builder, using its best skill and attention, will provide or cause to be provided all construction, construction supervision, inspection, labor, materials (including spare parts), tools (including any special tools that may be necessary and appropriate to complete the Project), construction equipment and subcontracted items necessary for the execution and completion of the Project and the Work in accordance with the provisions of this Agreement, the Contract Documents, and all Applicable Laws. Subject to the terms of this Agreement, Design-Builder shall be solely responsible for and shall have sole control over the means and methods of design and construction, including techniques, sequences, and procedures for coordinating all portions of the Work.
- 6.4.3 Unless otherwise specified in writing by Owner, all materials shall be new, and both workmanship and materials shall be of good quality. The Design-Builder shall, if required, furnish satisfactory evidence as to the kind and quality of materials and work.
- 6.4.4 The Design-Builder shall maintain during the progress of the Work a competent project executive and any necessary assistants, all satisfactory to the Owner. The project executive shall not be changed except with the consent of the Owner unless the project executive proves to be unsatisfactory to the Design-Builder or otherwise ceases to be in its employ. The project executive represents the Design-Builder and all directions given to the project executive shall be as binding as if given to the Design-Builder. If the Design-Builder terminates the project executive or, if the Design-Builder, for any reason, engages a project executive different from the one originally assigned to the Project, Design-Builder must ensure that the replacement project executive has equivalent or better qualifications and experience as the original project executive. Furthermore, the Design-Builder must obtain the Owner's prior written approval before engaging a permanent replacement project executive.
- 6.4.5 Design-Builder shall require Contractors, Subcontractors and Design Professionals and suppliers to employ and assign to the Work, at all times, sufficient staff and personnel to perform their services in a skilled, professional, and satisfactory manner so as not to delay the progress of the Work.
- 6.4.6 The Design-Builder shall schedule and conduct regular meetings, or as requested by the Owner, with the Owner, Construction Administrator, and appropriate Contractors, Subcontractors and Design Professional, for the purpose of discussing the progress of the design, status and progress of the Work, and other matters of coordination. The Design-Builder shall: (i) schedule regular biweekly (unless requested more frequently by the Owner) design and construction coordination meetings with all appropriate parties, including the Owner; and (ii) promptly issue reports and minutes of all such meetings in a format acceptable to the Owner, including therein a list of the action items, responsible parties, and action dates to maintain schedules.
- 6.4.7 Design-Builder shall submit written progress reports monthly to the Owner and the Construction Administrator, including information on the percentage of completion; and maintain a daily log, approved as to form and type of entries by the Construction Administrator, which log shall be accessible to the Owner for inspection and copying at all times during normal business hours.
- 6.4.8 The Design-Builder shall be responsible for coordinating all portions of the Work under this Contract. Design-Builder shall be responsible for construction means, methods, techniques, sequences, and procedures, as well as for safety precautions and programs in connection with the Work. Design-Builder shall perform the foregoing activities in compliance with the Contract Documents. Design-Builder shall coordinate and develop for Contractors and Subcontractors procedures for (i) preparation, review, and processing of Clarifications; (ii) reviewing requests for changes by the Owner, Contractors or Subcontractors; (iii) submitting recommendations to the Owner and the Construction Administrator with respect to proposed Clarifications; and (iv) implementing Clarifications as approved by the Owner.
- 6.4.9 In constructing the Project, Design-Builder shall provide all facilities and shall follow all procedures required by the Occupational Safety and Health Act ("OSHA") including, but not limited to, providing and posting all required posters and notices, and shall otherwise be responsible for compliance with all other mandatory safety laws, regulations and rules.

- 6.4.10** Design-Builder shall achieve Substantial Completion of the Project not later than the Substantial Completion Date and shall achieve Acceptance not later than the Acceptance Date set forth in the Project Schedule.
- 6.4.11** If at any time during construction of the Project, Design-Builder discovers any Hazardous Materials not previously described in the Contract Documents in, at, on, or under the Site, Design-Builder shall in no way move, disturb, or remediate the Hazardous Materials. Instead, Design-Builder shall immediately notify the Owner of the presence of the Hazardous Materials. The Owner, at its option, may test, remove, or remediate the condition. Design-Builder shall do and perform all things that are necessary or appropriate to facilitate the remediation, if any, of the Hazardous Materials by the Owner or any of its Representatives. If as a result of following the procedures in this subsection there is a delay on the Critical Path of the Project Schedule as determined by the Owner, then Design-Builder may, in the discretion of the Owner, receive an appropriate extension of time in the Project Schedule to accommodate the delay.
- 6.4.12** To ensure the proper execution of the Work, the Design-Builder shall monitor Work already in place and shall at once report to the Owner and the Construction Administrator any material discrepancy between the executed Work and the Drawings or Specifications.
- 6.4.13** Prior to Acceptance of the Work and Final Application for Payment, Design-Builder will pay all applicable costs and expenses, if any, relating to the Work and all costs relating to the performance of its responsibilities pursuant to all of the terms and conditions of this Agreement and the Contract Documents including, without limitation, all fees, assessments and other charges payable as a condition to obtaining utilities, permits and approvals.
- 6.4.14** Wages paid by Design-Builder, Contractor or Subcontractors shall be in accordance with the provisions of Section 31-53 of the Connecticut General Statutes, as amended, which provides in part, the following:
- The wages paid on an hourly basis to any mechanic, laborer or workman employed upon the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such employee to any employee welfare fund, as defined in subsection (h) of this section, shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such employees to any such employee welfare fund shall pay to each employee as part of his wages the amount of payment or contribution for his classification on each payday.
- 6.4.15** Except as otherwise expressly provided in this Agreement, Design-Builder assumes all design, architectural, engineering and construction delay and other risks relating to the Project in accordance with this Agreement.
- 6.4.16** The Owner, the Construction Administrator, and any other Person designated by the Owner shall at all times have access to the Site.
- 6.4.17** On or before the execution of this Agreement, Design-Builder shall submit an executed payment and performance bond in the amount of 100% of the Contract Price, such bond to be provided by a surety approved by the Owner and in a form acceptable to the Owner. The bonds shall name the Owner as obligee.
- 6.4.18** Design-Builder will be responsible for the initial start-up and all testing required to provide complete and operational utilities, equipment, and systems, and to coordinate start-up and testing schedules in order to accommodate the Owner personnel who may want to observe. Design-Builder shall cause to create and implement a training program for the Owner Representatives responsible for the ongoing operations of the facility. Such program will include, but not be limited to, instruction in the operation and maintenance of the electrical, mechanical, plumbing, HVAC, conveyance, security, life safety and other systems. Such program will be completed prior to submission of a Certificate of Substantial Completion by Design-Builder to the Owner.

- 6.4.19 Prior to Acceptance, Design-Builder shall provide to the Owner, or cause to be provided, Construction Documents, photographic documentation of all systems installations, including, but not limited to, electrical, mechanical, fire suppression, and plumbing systems, and "As Built" drawings certified as complete, accurate, and current by the Design Professional, on diskettes, in a CADD system file format approved by the Owner. Design-Builder shall assign, convey or otherwise transfer, or cause the assignment, conveyance or transfer of the right, title, ownership, and interest in and to said "As Built" drawings to the Owner at Acceptance.
- 6.4.20 An A-2 Property Survey and a T-2 Topographic Survey of the Site, prepared and certified by a licensed land surveyor in the State of Connecticut shall be delivered to the Owner no later than the Acceptance Date.

**6.5 Design-Builder Warranties.**

- 6.5.1 Design-Builder warrants to the Owner that the Project, including all materials and equipment, will be designed and constructed in a good and workmanlike fashion and in accordance with the terms and conditions of this Agreement and the Contract Documents, and that the Project, including all materials and equipment, will be free of any defects, including, without limitation, design, architectural, structural, or mechanical defects for a period of twenty-four (24) months from the Substantial Completion Date, unless otherwise provided in this Agreement, including, but not limited to the RFP. The warranties provided in this Agreement shall be limited as to duration as provided herein, or in the General Conditions or in the General Requirements, or to such longer period as provided by material and equipment manufacturers or as may be required by Applicable Laws. Without limiting any other remedies that may be available to the Owner in the event of any breach of any such warranties, Design-Builder promptly after receipt of notice from the Owner, and immediately in the event of an emergency, shall repair, replace, or correct all Work performed under this Agreement by Design-Builder, or any Contractor or Subcontractor that proves to be defective in design, engineering, architecture, material, or workmanship, or otherwise not in compliance with Contract Documents.
- 6.5.2 Warranties called for by this Agreement shall commence upon Substantial Completion of the Project. Design-Builder's obligations under this Section shall survive termination or expiration of the Agreement and shall be in force for the periods prescribed above. Upon Substantial Completion Date, Design-Builder will obtain, collect and deliver to the Owner all written warranties, guarantees, equipment, operating and maintenance manuals, specifications, and other such data in its possession relating to the Project and required by the Contract Documents. All warranties and guarantees relating to the Project from manufacturers and suppliers of mechanical and other equipment located in the Project shall be made out to the Owner or shall be assigned to the Owner upon Substantial Completion.

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**ARTICLE 7 OWNER'S RESPONSIBILITIES**

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- 7.1 The Owner shall timely perform all obligations assigned to it in accordance with Project Schedule consistent with applicable statutory requirements.
- 7.2 In accordance with the Contract Documents, the Owner shall timely submit, review, or approve such other items as may occur or be required in the course of the Work, to avoid delays in the commencement, continuance, or completion of the Work.
- 7.3 The Owner shall pay its pro rata share of charges for utilities incurred by reason of the Owner occupying any portion of the Project prior to Substantial Completion and after receipt of a temporary Certificate of Occupancy allowing such occupancy. If these utilities are not separately metered, Design-Builder and the Owner shall equitably adjust all such utility bills so that Design-Builder and the Owner each pay their fair share of each bill.
- 7.4 If the Owner has actual knowledge of any fault or defect in the Project or nonconformance with the Construction Documents, it shall give written notice and a reasonable opportunity to cure the condition to Design-Builder prior to declaring a default in performance by Design-Builder; provided, however, that any failure by the Owner to do so shall not relieve Design-Builder from any of its obligations pursuant to this Agreement.

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**ARTICLE 8 CONTRACTORS AND SUBCONTRACTORS**

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**8.1 Contracts Required**

All portions of the Work that the Design-Builder is to perform pursuant to this Agreement that Design-Builder does not perform with its own forces shall be performed under contracts with Contractors or Subcontractors, and all materials and equipment not supplied directly by Design-Builder shall be supplied under contracts with Contractors or Subcontractors.

**8.2 Privity.**

No contractual relationship shall exist by reason of this Agreement between the Owner and any Contractor, Subcontractor and Design Professional. Design-Builder shall have sole responsibility for the management of Contractors, Subcontractors and Design Professional and suppliers to them in the performance of the Work. Any communication the Owner desires to direct to a Contractor or Subcontractor shall be directed through Design-Builder who shall deliver all such communications with reasonable promptness. Notwithstanding the above, the Owner shall not be prohibited from communicating directly with a Contractor, Subcontractor, or Design Professional with whom the Owner is in privity of contract with on other projects.

**8.3 Subcontracts Assignable.**

All subcontracts shall by their terms be assignable to the Owner and its successors and assigns if the Design-Builder is in breach of this Agreement, and shall contain such terms as are required under the Contract Documents and be subject to the terms of this Agreement. The Design-Builder shall assign any or all of these subcontracts to the Owner, at the Owner's sole option, upon the Owner's request after termination of this Agreement pursuant to Article 10 Termination.

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**ARTICLE 9 INDEMNITY AND INSURANCE (Addendum No. 2 Item 17 – 12.18.13)**

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**9.1 Indemnity**

Design-Builder shall indemnify, defend and hold harmless the Owner and its officers, employees and agents and legal representatives, successors and assigns from and against all

- 9.1.1** actions, suits, claims, investigations, or legal or administrative or arbitration proceedings pending or threatened, whether at law, in equity or otherwise, in any forum (collectively, "Claims") arising directly or indirectly from or in connection with this Agreement including, but not limited to, acts of commission, omission, or misconduct (collectively, the "Acts") by Design-Builder or any of their respective Representatives (collectively, "Design-Builder's Parties");
- 9.1.2** liabilities arising under this Agreement directly or indirectly out of Design-Builder's or Design-Builder Parties' acts concerning its or their duties and obligations as set forth in this Agreement; and
- 9.1.3** damages, losses, costs and expenses, including, but not limited to, attorneys' and other professionals' fees, that may arise out of such Claims and/or liabilities for bodily injury, death and/or property damage; provided that Design-Builder shall not be responsible for indemnifying or holding the Owner harmless from any claims or liabilities arising solely out of the grossly negligent acts or omissions, or willful misconduct, of the Owner.
- 9.1.4** Nothing contained in this Section 9.1, Indemnity shall reduce, avoid, or eliminate Design-Builder's warranty obligations under this Agreement or Applicable Law.
- 9.1.5** The terms of this Section 9.1, Indemnity shall survive Acceptance of the Work and/or termination of this Agreement indefinitely.



**9.2 Design-Builder's Insurance**

**9.2.1** The Design-Builder shall not commence the Work until it has obtained insurance as stated below and such insurance has been approved by the Owner. The Design-Builder shall not allow the Design Professional or any structural engineering firm to start Work until the required insurance has been obtained by the Design Professional and any structural engineering firm, and approved by the Owner. If the Design-Builder is not the Person performing the construction phase of the Work, the Design-Builder shall not allow that Person to start Work until the required insurance has been obtained by that Person and approved by the Owner. The Design-Builder shall not allow any Subcontractor to start Work until the required insurance has been obtained by the Subcontractor, or, in the alternative, the Design-Builder's insurance provides coverage on behalf of the Subcontractor. Notwithstanding the above, the Subcontractors shall not be required to provide Owner's and Contractor's Protective Liability insurance, Builder's Risk Insurance, and Inland Marine/Transit Insurance. Each insurance policy shall be with companies as set forth in subsection 9.2.8. The Design/Builder shall send Certificates of Insurance to the Department of Administrative Services, Division of Construction Services, Legal Unit, Room 445, 165 Capitol Avenue, Hartford, CT 06106, unless otherwise directed in writing. Presented below is a narrative summary of the insurance coverage required.

**9.2.1.1 Workers' Compensation And Employer's Liability:**

Workers' Compensation And Employer's Liability as required by Connecticut State statutes and employers' liability with a limit of not less than \$100,000 per occurrence, \$500,000 disease policy limit, and \$100,000 disease each employee. When Work is on or contiguous to navigable waters of the U.S., the Design-Builder shall include an endorsement for U.S. Longshore and Harbor Workers' Compensation Act insurance coverage. (33 USC 901 et. seq.)

**9.2.1.2 Commercial General Liability:**

Commercial General Liability insurance including contractual liability, products/completed operations, broad form property damage and independent contractors. The limits shall be no less than \$1,000,000 each occurrence and \$2,000,000 annual aggregate. Coverage for hazards of explosion, collapse, and underground subsidence (X-C-U) and for asbestos abatement when applicable to this D-B Agreement must also be included when applicable to the Work to be performed. Products and completed operations insurance shall be maintained for a period of three (3) years after Substantial Completion. The State of Connecticut shall be named as an additional insured, including for both ongoing and completed operations. This coverage shall be provided on a primary basis.

**9.2.1.3 Owner's And Contractor's Protective Liability:**

Owner's And Contractor's Protective Liability insurance providing a total limit of \$1,000,000 for all damages arising out of bodily injury or death of persons in any one accident or occurrence and for all damages arising out of injury or destruction of property in any one accident or occurrence and subject to a total (aggregate) limit of \$2,000,000 for all damages arising out of bodily injury to or death of persons in all accidents or occurrences and out of injury to or destruction of property during the policy period. This coverage shall be for and in the name of the State of Connecticut.

**9.2.1.4 Automobile Liability:**

The operation of all motor vehicles including those owned, non-owned, and hired or used in connection with the Project shall be covered by motor vehicle liability insurance providing for a total limit of **\$1,000,000** for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence and for all damages arising out of injury to or destruction of property in any one accident or occurrence. In cases where an insurance policy shows an aggregate limit as part of the automobile liability coverage, the aggregate limit must be at least **\$2,000,000**. This coverage shall be provided on a primary basis. Should the Design-Builder not own any automobiles, the automobile and liability requirement shall be construed to allow the Design-Builder to maintain only hired and non-owned liability.

**9.2.1.5 Builder's Risk Insurance with Respect to the Work:**

The Design-Builder shall maintain comprehensive builder's risk (completed value, but in no event less than the Contract Price) insurance providing coverage for the entire Work at the Project Site, including all fixtures, machinery and equipment, any heating, cooling and electrical systems constituting a permanent part of the building and shall also cover portions of Work located away from the Site but intended for use at the Site and shall also cover portions of Work in transit. Coverage shall be written in a completed value amount not less than the Contract Price on a replacement cost basis without optional deductibles and shall cover compensation for architect's and contractor's services and expenses required as a result of an insured loss and the policy shall state that it is for the benefit of and payable to the State of Connecticut, *as its interests may appear*. Such coverage shall insure against any and all casualty or property loss or damage with respect to the Project on an all risk perils basis, including coverage against fire, extended coverage, vandalism, collapse, windstorm, malicious mischief and special extended perils as contained in customary all risk policies, including but not limited to earthquake or flood.

**9.2.1.6 Inland Marine/Transit Insurance:**

With respect to property with values in excess of **\$100,000**, which is rigged, hauled, or situated at the site pending installation, the Design-Builder shall maintain Inland Marine/Transit insurance provided the coverage is not afforded by a Builder's Risk policy.

**9.2.1.6.1** When required to be maintained, the Builder's Risk and Inland Marine/Transit insurance policy shall endorse the State of Connecticut as a Loss Payee.

**9.2.1.7 Professional Services Liability Insurance:**

The Design-Builder shall furnish evidence by way of a certificate of insurance that it has obtained a professional services liability insurance policy with policy coverage equal to the greater of;

**9.2.1.7.1** **\$2,000,000.00** or;

**9.2.1.7.2** **ten percent (10%)** \$( ) of the Contract Price for negligence and errors and omissions. If any claims are paid against such professional services liability insurance policy, the Design-Builder shall agree to purchase additional insurance in order to maintain the minimum coverage required herein. The insurance shall remain in effect during the entire duration of the Agreement and for eight (8) years after Acceptance of the Project. For policies written on a "Claims Made" basis, the Design-Builder shall maintain a retroactive date prior to or equal to the effective date of the Agreement.

- 9.2.1.7.3** The Design-Builder shall contractually require its Design Professional to maintain professional liability insurance in the amount of **\$5,000,000.00** minimum coverage for negligence and errors and omissions. Each policy aggregate shall be reinstated annually. The insurance shall remain in effect during the entire duration of the Agreement and for eight (8) years after Acceptance of the Project. For policies written on a "Claims Made" basis, the Design-Builder shall cause its Design Professional to maintain a retroactive date prior to or equal to the effective date of the Agreement.
- 9.2.1.7.4** The Design-Builder shall cause its Design Professional to contractually require any structural engineering firm it hires to maintain professional liability insurance in the amount of **\$2,000,000.00** minimum coverage for negligence and errors and omissions and with the same provisions indicated above.
- 9.2.1.8 Contractor's Pollution Liability:**  
Contractor's Pollution Liability coverage for personal injury, property damage and clean up costs arising from pollution conditions by the operations and activities of the Design-Builder with limits of **\$1,000,000.00**. Coverage shall be on an occurrence basis. Coverage shall include contractual liability coverage for claims arising out of liability of Contractors and Subcontractors, transporting, loading and unloading, completed operations, and non-owned disposal site coverage.
- 9.2.1.9 Umbrella Liability Insurance,**  
Umbrella Liability Insurance, including a drop down provision covering any exhausted underlying aggregate limits, in the amount of **\$15,000,000.00** *for the Design-Builder (\$5,000,000.00 for its Design Professional and \$1,000,000.00 for each of the other Subcontractors)* combined single limit each occurrence in excess of the coverages described in 9.2.1.1 Workers Compensation and Employer's Liability, 9.2.1.2 Commercial General Liability, and 9.2.1.4 Automobile Liability above. The State of Connecticut shall be named as an additional insured.
- 9.2.2** If necessary, the Design-Builder may satisfy the minimum limits required above for Commercial General Liability, Automobile Liability, or employer's liability coverage under an Umbrella or excess liability policy. The underlying limits may be set at the minimum amounts required by the Umbrella liability policy provided the combined limits meet at least the minimum limit for each required policy. The Umbrella Liability Policy shall have an annual aggregate at a limit not less than two (2) times the highest per occurrence minimum limit required above for any of the required coverages. The State of Connecticut shall be specifically endorsed as an additional insured on the umbrella liability policy, unless the Umbrella liability policy provides continuous coverage to the underlying policies on a complete "Follow-Form" basis.
- 9.2.3** Each insurance policy required to be maintained by the Design-Builder except Workers' Compensation, Employer's Liability, Professional Liability, Owners And Contractors Protective Liability, and Automobile Liability shall endorse the State of Connecticut as an additional insured (loss payee for builder's risk insurance, as its interests may appear). Additional insured endorsements or loss payee endorsements, as applicable, shall provide coverage on a primary basis.
- 9.2.4** The Design-Builder shall, at its sole cost and expense, maintain in full force and effect at all times during the term of the Agreement, insurance coverage as described herein. Insurance certificates shall include a minimum thirty (30) day notice requirement to the Owner prior to any cancellation or non-renewal.
- 9.2.5** The Design-Builder shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention, including any loss not covered because of the operation of such deductible, coinsurance penalty, or self-insured retention.

- 9.2.6 The requirement contained herein as to types and limits of insurance coverage to be maintained by the Design-Builder are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Design-Builder.
- 9.2.7 If any Design-Builder Policy containing the coverage and other terms set forth herein is not available on a reasonable basis, the Design-Builder shall in lieu thereof keep and maintain in full force and effect such policy as is then available on a reasonable basis that most nearly approximates the terms described above. The Design-Builder shall promptly notify the Owner in writing if any of the required insurance is unavailable on a reasonable basis and shall include in such notice the terms and limits of the substitute policies obtained. The Design-Builder shall not obtain or maintain separate insurance coverage specifically related to the Project that is concurrent in form, or contributing in the form of loss, to the coverage required by this Agreement unless the Owner is named in such concurrent or other coverage as an additional insured and loss payee in the same manner as required by this Agreement for the Design-Builder Policy. The Design-Builder agrees that its insurer will not seek contribution from other insurance available to the Owner.
- 9.2.8 Each Design-Builder Policy shall be with companies that are nationally recognized and that have a policyholder's rating of at least A-, VII, as listed at the time of issuance by A. M. Best Insurance Reports, or such other rating as the Design-Builder and the Owner may mutually agree, and are licensed to issue such insurance in Connecticut. Each Design-Builder Policy shall provide that it may not be canceled, terminated, reduced, or materially changed unless at least thirty (30) Calendar Days advance notice thereof has been provided to the Owner, except in the case of cancellation or termination due to a lapse for nonpayment, in which case only ten (10) Calendar Days advance notice shall be required. Each Design-Builder Policy shall include waivers of;
- 9.2.8.1 all rights of subrogation against the Owner and;
- 9.2.8.2 any recourse against any parties other than the Design-Builder for payment of any premiums or assessments under such policy. Each Design-Builder Policy covering third-party liability shall contain a cross-liability endorsement or a severability of interest endorsement providing that coverage, to the maximum amount of the policy, shall be available despite any suit between the insured and any additional insured under such policy. Each Design-Builder Policy shall provide that it may not be invalidated by any act, omission, or negligence of the Owner. The Design-Builder Policies shall not in the aggregate have deductibles or self insured retentions in excess of \$250,000 per occurrence.
- 9.2.9 Each Design-Builder Policy obtained in accordance with 9.2.1.5 Builder's Risk Insurance above shall be on a completed value form including boiler and machinery coverage, with course of construction business interruption insurance in such amount as may be reasonably determined by the Design-Builder, and shall contain an endorsement providing that, in the case of loss, if the Project costs more to restore due to changes in Applicable Laws, then such increased costs shall be insured. This insurance shall include the Owner as loss payee, as its interests may appear. Design-Builder agrees to reconstruct, at the request of the Owner, any portion of the Project that is damaged or destroyed. Each such Design-Builder Policy maintained shall name the Owner as loss payee. Nothing herein is intended to release the Design-Builder from its liability to the Owner pursuant to this Agreement notwithstanding any such insurance coverage.
- 9.2.10 Commercial General Liability insurance shall include premises-operations (including explosion, collapse and underground subsidence (XCU)), elevators, independent contractors, completed operations, broad form property damage and blanket contractual liability on all written contracts. Each such Design-Builder Policy maintained in accordance with 9.2.1.6 Inland Marine/Transit Insurance, and 9.2.1.8 Contractor's Pollution Liability Insurance above shall name the Owner as an additional insured, as its interest may appear.

- 9.2.11 The Design-Builder shall deliver, or cause to be delivered, to the Owner certificates of insurance and any other documentation reasonably requested by the Owner evidencing the existence of the Design-Builder Policies, such delivery to be made at least fourteen (14) Calendar Days prior to the Commencement of Work. Within fourteen (14) Calendar Days after the issuance of any additional policies or amendments or supplements to any of the Design-Builder Policies, the Design-Builder shall deliver revised certificates of insurance reflecting any such addition, amendment, or supplement. With respect to any Design-Builder Policy that expires by its terms prior to the date on which Acceptance of the Work occurs, the Design-Builder shall deliver certificates of insurance and any other documentation reasonably requested by the Owner evidencing the existence of a renewal or replacement of any Design-Builder Policy, such delivery to be made at least thirty (30) Calendar Days prior to the expiration of such Design-Builder Policy.
- 9.2.12 If the Owner finds it necessary to access a portion or portions of the Project prior to Substantial Completion for the purpose of installing and testing equipment, the Owner shall give Design-Builder ten (10) Calendar Days notice of when and where such installations and testing are to occur. Design-Builder shall use reasonable efforts to arrange for the insurance company or companies providing the property insurance to consent to such access by endorsement to the policy or policies. No insurance shall be canceled or lapsed on account of the Owner's access to the Project.
- 9.2.13 Except as otherwise expressly provided in this Agreement, all insurance coverage required pursuant to this Article 9, shall be obtained, and maintained by Design-Builder at Design-Builder's sole cost and expense.
- 9.2.14 The Owner does not represent that the insurance coverage specified above, whether in scope of coverage or amounts of coverage, are or will be adequate to protect Design-Builder with respect to the risks it is assuming pursuant to this Agreement, and Design-Builder shall be solely responsible for any deficiencies thereof, such that Design-Builder shall replace all or any part of the Work regardless of any deficiency in coverage.
- 9.2.15 Whenever a surety bond is required in connection with a contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for work by the state or a municipality, that is estimated to cost more than five hundred thousand dollars and is paid for, in whole or in part, with state funds, the surety contract between the contractor named as principal in the bond and the surety that issues such bond shall contain the following provision: "In the event that the surety assumes the contract or obtains a bid or bids for completion of the contract, the surety shall ensure that the contractor chosen to complete the contract is prequalified pursuant to section 4a-100 of the Connecticut General Statutes in the requisite classification and has the aggregate work capacity rating and single project limit necessary to complete the contract".

## ARTICLE 10 TERMINATION

### 10.1 Owner's Right to Terminate Agreement

- 10.1.1 Notwithstanding any provision or language in the Agreement, the Owner shall have the sole authority to terminate this Agreement if it finds that such termination is in the best interests of the Owner, or in the interest of public necessity, convenience, or safety as determined by the Owner, in its sole discretion. Any such termination shall be effected by delivery to the Design-Builder of a written Notice of Termination specifying the extent to which performance of Work under this Agreement is terminated, and the date upon which such termination shall be effective. In the event of such termination, the Design-Builder may be entitled to reasonable compensation as determined by the Owner, however, no claim for lost overhead or profit shall be allowed.

- 10.1.2** Without limiting Owner's rights under Section 10.1.1., if Design-Builder fails to observe or perform any material agreement or covenant of this Agreement or any other Contract Document, and if such failure continues for more than fifteen (15) Calendar Days after notice of such failure from the Owner, or if any proceeding is instituted against Design-Builder seeking to adjudicate Design-Builder as bankrupt or insolvent, and such proceeding is not dismissed within ninety (90) Calendar Days of such filing, or if Design-Builder declares itself bankrupt or files for bankruptcy protection, or if Design-Builder makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of Design-Builder, or if Design-Builder files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts, or if there is a material adverse change in the financial condition or operations of the business or prospects of Design-Builder that substantially affects Design-Builder's ability to perform the Work in accordance with the Project Schedule, then the Owner may, without prejudice to any other right or remedy the Owner may have, terminate this Agreement. Such termination shall be effective by delivery to the Design-Builder of a written Notice of Termination specifying the extent to which performance of Work under this Agreement is terminated, and the date upon which such termination shall be effective.
- 10.1.3** If the Design-Builder is a sole proprietor and the Design-Builder should die during the term of this Agreement, this Agreement shall be considered terminated. In the event of such termination, the Design-Builder's estate may be entitled to reasonable compensation for any uncompensated Work performed prior to the date of death, and the Owner shall have title to, and shall have the right to immediate use and possession of all finished and unfinished documents prepared under this Agreement. The Owner shall determine the amount of such compensation.
- 10.1.4** Termination of this Agreement shall not relieve the Design-Builder or its surety of their responsibilities for the completed Work, nor shall it relieve the Design-Builder's surety of its obligations to ensure completion of the Work and to pay legitimate claims arising out of the Work.
- 10.1.5** In the event of termination, materials obtained by the Design-Builder for the Work that have been inspected, tested as required, and accepted by the Owner, and that are not incorporated into the Work, may, at the option of the Owner, be purchased from the Design-Builder at actual cost as shown by receipted bills. To this cost shall be added all actual costs for delivery at such points of delivery as may be designated by the Owner, as shown by actual cost records.
- 10.1.6** In the event of any such termination pursuant to subsection 10.1.1 or 10.1.2:
- 10.1.6.1** Design-Builder upon the effective date of termination, shall:
- .1 immediately discontinue all further Work, or part thereof, as directed by the Owner, on the Project;
  - .2 immediately quit the Project;
  - .3 immediately quit the Site, or such part thereof, as directed by the Owner, leaving all plant, materials, equipment, tools (except personal tools), and supplies to be incorporated in the Work;
  - .4 provide the Owner with a final accounting for the Project as of the date of termination; and
  - .5 provide the Owner the right to inspect and copy all Project records of Design-Builder and the Design Professional;
- 10.1.6.2** The Owner may have the Work completed in accordance with the Contract Documents by such means and in such manner as it may deem to be advisable, utilizing for such purpose, without additional cost to the Owner, such of Design-Builder's plant, materials, equipment, tools (except personal tools), and supplies remaining on the Site or stored off the Site, and also in accordance with Article 10, those Contractors and Subcontractors as it may deem to be advisable;

- 10.1.6.3** Solely for a termination pursuant to Section 10.1.2, Design-Builder shall be liable to the Owner for 100% of the amount thereafter expended by the Owner and reasonably required to complete the Project, to the extent such amount exceeds the balance of the Contract Price unpaid as of the date of such termination, and this obligation for payment shall survive the termination of this Agreement. This expense, together with any damages due hereunder for delays caused by Design-Builder, may be set-off and deducted from monies due or to become due to Design-Builder under this Agreement or any part hereof. If such expense is more than the sum of the Contract Price, Design-Builder shall pay the amount of such deficiency to the Owner;
- 10.1.6.4** **NOT USED**
- 10.1.6.5** At the Owner's discretion, Design-Builder shall assign to the Owner and any replacement design builder all subcontracts and purchase orders, deliver to the Owner all Contract Documents and Construction Documents including, but not limited to, plans, Drawings, Specifications, other design information pertaining to the Project, submittals, invoices, and all other documents necessary to complete the Project, and remove from the Site, at Design-Builder's sole cost, all such equipment, waste material, and rubbish as may be requested by the Owner.
- 10.1.7** Nothing in this Article 10 shall limit the remedies available to the Owner at law, in equity or otherwise if Design-Builder defaults on its obligations under this Agreement or any other Contract Document.

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**ARTICLE 11 DISPUTES**

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- 11.1 Mediation**  
The Owner and Design-Builder may agree to submit any unresolved claims, controversies, or disputes arising out of or pertaining to this Agreement to a non-binding mediation. The place of mediation shall be Hartford, Connecticut.
- 11.2 Continued Performance**  
Unless otherwise agreed to in writing, the Owner and Design-Builder shall continue with performance of their respective duties under the Agreement pending completion of any mediation proceeding or proceeding set forth in Section 11.3.
- 11.3 Action Against The Owner**  
Except as otherwise provided in Section 11.1, any claim or dispute under this Agreement or breach thereof shall be settled in accordance with the provisions of Section 4-61, of the Connecticut General Statutes, as revised. Any proceeding pursuant to Section 4-61, of the Connecticut General Statutes, as revised, shall be conducted in Hartford, Connecticut, unless otherwise agreed to by the parties hereto.

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**ARTICLE 12 ASSIGNMENT AND AMENDMENT**

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- 12.1 Assignment**  
Except as otherwise provided herein, Design-Builder shall not have the right to assign its interest or obligations under this Agreement without the prior written consent of the Owner, which may be withheld in the Owner's sole discretion. The Owner may assign its rights under this Agreement to any other board, agency, or commission of the State of Connecticut.

**12.2 Entire Agreement**

The Request for Proposals contains additional requirements for the Project, which are incorporated by reference as if fully set forth herein. This Agreement represents the entire Agreement between the Owner and Design-Builder and supersedes all prior negotiations, representations, or agreements between such parties regarding the Project. Except for Clarifications with respect to the Work, this Agreement may be amended only by means of Agreement Amendment signed by both the Owner and the Design-Builder and with the written approval by the State Properties Review Board and the Office of the Attorney General.

**12.3 Successors and Assigns**

This Agreement shall be binding upon and inure to the benefit of the successors and assigns (where permitted under this Agreement) of Design-Builder and the Owner.

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**ARTICLE 13 MISCELLANEOUS PROVISIONS**

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**13.1 Further Assurances.**

Design-Builder and the Owner shall provide such information, execute and deliver such instruments and documents, and take such other actions as may be necessary or reasonably requested by the other party, which are not inconsistent with the provisions of this Agreement and which do not involve the assumption of obligations other than those provided for in this Agreement.

**13.2 Headings.** The headings set forth in this Agreement are used for organizational purposes only and are not intended to and shall not constitute substantive parts of the Agreement.**13.3 All Required Provisions Incorporated**

All provisions required pursuant to this Agreement, including but not limited to the Contract Documents and Applicable Laws, rules and regulations are herein incorporated by reference as if fully set forth herein.

**13.4 Interpretation of Documents.** The Design-Builder represents that it has fully examined all Contract Documents, including the RFP Documents, and has notified the Owner of any discrepancies or conflicts in the Contract Documents prior to execution of this Agreement. The Design-Builder agrees that any discrepancies or conflicts in the Contract Documents shall not be construed against the Owner nor form the basis of any claim by the Design-Builder against the Owner. If any discrepancy or conflict exists between the Contract Documents, then the Design-Builder shall provide the greater quality or greater quantity of the more stringent requirements, unless the Owner otherwise agrees in writing. Without in any way limiting the foregoing, if any discrepancy or conflict exists among this Agreement, the General Conditions, and/or the General Requirements as set forth in the RFP, then the Design-Builder shall provide the greater detail or more stringent requirements, unless the Owner otherwise agrees in writing.**13.5 Counterparts**

This Agreement may be executed in counterparts, each one of which shall be deemed to be an original.

**13.6 Remedies Cumulative**

The rights and remedies provided herein are cumulative.

**13.7 Governing Law**

This Agreement shall be governed by the laws of the State of Connecticut without giving effect to its conflicts of law provisions.

**13.8 Nondiscrimination And Affirmative Action Provisions, Executive Orders, Sexual Harassment Policy, Nondiscrimination Provisions Regarding Sexual Orientation, Summary Of State Ethics Laws, and Large State Government Contracts**

Design-Builder shall be bound by all of the terms and conditions of Appendix G, attached hereto and made a part of this Agreement. For purposes of this Agreement and Appendix G, the word "contractor" as used therein shall be deemed to refer to Design-Builder.



**13.9 Set-Aside Program**

Design-Builder shall award not less than 25% of the cost of construction to Contractors and Subcontractors who are certified and eligible to participate under the State of Connecticut Set Aside Program for small, minority and women owned business enterprises including 6.25% that must be awarded to certified and eligible minority/women owned enterprises, in accordance with Connecticut General Statutes Section 4a-60g through 4a-60j. This requirement must be met even if Design-Builder is certified and eligible to participate in the Small Business Set-Aside Program. Design-Builder shall draft and submit for approval an affirmative action plan in accordance with the rules and regulations of the Connecticut Human Rights and Opportunities Commission ("CHRO"). The affirmative action plan must be approved by the CHRO as a condition precedent to this Agreement.

**13.10 Attorneys' Fees**

Unless otherwise expressly set forth in this Agreement, if either party is required to assert a claim under this Agreement against the other party under this Agreement or defend a claim asserted by the other party under this Agreement, each party shall bear its own costs incurred in asserting or defending said action.

**13.11 Connecticut Sales And Use Tax**

The Owner has advised the Design-Builder and the Design-Builder hereby so acknowledges, that the purchase of supplies and materials which are to be physically incorporated in and become a permanent part of the Project will not be subject to Connecticut sales and use taxes. Notwithstanding the above, the Design-Builder shall familiarize itself with the current statutes and regulations of the State of Connecticut Department of Revenue Services, including, but not limited to and, if applicable, Section 12-430 (7) Connecticut General Statutes, as revised, entitled "Deposit requirements for persons doing business with non-resident contractors".

**13.12 Consent Order**

Design-Builder agrees not to enter into any settlement, consent decree, or other agreement, written or oral, between the Design-Builder and the government of the United States, or any department or agency thereof, or any state thereof, which allocates or apportions responsibility or which otherwise affects the liability of or grants immunity to Design-Builder for any noncompliance with any of the Environmental Laws or otherwise relates to any remediation or removal of any environmental condition located at, on, or under the property where the Project is located without the express written consent of the Owner.

**13.13 Duty to Cooperate**

In the event the Owner is required by any agency of the United States or a State thereof, to investigate or remediate any environmental condition at, on, or under the property where the Project is located, Design-Builder agrees to cooperate with the Owner with respect to such matters as the enforcement agency may request including, but not limited to, production of shipping manifests and related documents, past inventory information, provision of materials related to site history, and internal reports related to the site.

**13.13.1** Furthermore, if the Owner makes a claim against any policy of insurance or reinsurance related to the property where the Project is located, or against any third party, or against the Connecticut Underground Storage Tank Fund, or similar fund, Design-Builder agrees to cooperate with the Owner in making such application.

**13.13.2** The Design-Builder shall strictly comply with the requirements of all applicable Environmental Laws. Furthermore, the Design-Builder shall not store, generate, or use any Regulated Substances at, on, or under the property in violation of Environmental Laws.

**13.13.3** Design-Builder shall limit the use and storage of any Regulated Substances at, on, or under the property to only those quantities required for the execution of the Work. Excess quantities shall be promptly removed from the property upon completion of the operations requiring their use. Under no circumstances shall Regulated Substances be disposed of at, on, or under the property or adjacent property or discharged into any watercourse or sewer. All Regulated Substances shall be shipped off site in accordance with the Environmental Laws and shall list the Design-Builder as the generator of the Regulated Substances on all manifests.

**13.14 Environmental Laws Indemnification**

**13.14.1** Without limiting the terms of Article 9 hereof in any manner, Design-Builder shall jointly and severally protect, indemnify, defend, and hold harmless the Owner and its officers, employees, and agents and their respective heirs, legal representatives, successors, and assigns from and against any and all loss, damage, cost, charge, lien, debt, fine, penalty, injunctive relief claim, demand, expense, suit, order, judgment, adjudication, liability or injury to person, property or natural resources, including attorney's fees and consultant fees arising out of, attributable to, which may accrue out of, or which may result from:

**13.14.1.1** a violation of the Environmental Laws in connection with the Project by Design-Builder, any of its Representatives or any person or entity or other source employed or utilized by Design-Builder, or

**13.14.1.2** the disposal or alleged disposal of Hazardous Materials (whether intentional or unintentional, direct or indirect, foreseeable or unforeseeable) by any person or entity or other source, whether related or unrelated to Design-Builder, except that these obligations shall not apply in the event of the disposal of Hazardous Materials by the Owner or its Representatives.

**13.14.2** All Design-Builder obligations hereunder shall survive this Agreement or any other agreement or action including, without limitation, any consent decree, order, or other agreement between Design-Builder and the government of the United States or any department or agency thereof.

**13.15 Access to Records**

The Owner reserves the right to access and make copies of the Design-Builder's books and records at any time upon written request from the Commissioner. The Design-Builder shall retain all of its books and records pertaining to the Project, including this Agreement, for a period of seven (7) years from the date of the Certificate of Acceptance. This provision shall survive the termination or expiration of this Agreement.

**13.16 Confidentiality of Documents**

**13.16.1** The Design-Builder agrees on behalf of the Design-Builder and the Design-Builder's principals, employees, agents, heirs, successors and assigns that they shall only utilize drawings, specifications, maps, reports, records, or other documents to the extent necessary for the performance of the Design-Builder's work and duties under this Agreement. This limitation on use applies to those items produced by the Design-Builder, as well as to those items received by the Design-Builder from the Owner or others in connection with the Design-Builder's work and duties under this Agreement.

**13.16.2** The Design-Builder further agrees that said drawings, specifications, maps, reports, records, and other documents may not be released to any other entity or person except for the sole purpose of the Work described in this Agreement. No other disclosure shall be permitted without the prior written consent of the Department of Construction Services.

**13.16.3** The Design-Builder further agrees that the following provision will be included in its contracts with Contractors and Design Professionals and in all Subcontracts:

**13.16.3.1** Any and all drawings, specifications, maps, reports, records or other documents associated with the contract Work shall only be utilized to the extent necessary for the performance of the Work and duties under this contract. Said drawings, specifications, maps, reports, records and other documents may not be released to any other entity or person except for the sole purpose of the Work described in this contract. No other disclosure shall be permitted without the prior written consent of the Department of Construction Services (Owner). When any such drawings, specifications, maps, reports, records or other documents are no longer needed, they shall be destroyed.

**13.17 Annual Certification**

If the aggregate value of this Agreement exceeds Fifty Thousand Dollars (\$50,000.00), including all amendments, then the Design-Builder shall annually submit, on or within two (2) weeks of the anniversary date of the execution of this Agreement, a completed annual contract certification to: Room 437, 165 Capitol Avenue, Hartford, CT 06106, to the attention of the Legal Unit Secretary. For the purposes of this section, the execution date of this Agreement shall be the date the Owner signs this Agreement. The accepted and Owner approved form of the annual contract certification can be found on the Owner's Website at [www.ct.gov/dpw](http://www.ct.gov/dpw). (or [www.ct.gov/dcs](http://www.ct.gov/dcs)).

**13.18 Ownership of Documents**

It is mutually agreed and understood that all finished and unfinished Construction Documents prepared by the Design-Builder and/or the Design Professional pursuant to this Agreement and paid for by the Owner shall immediately become the exclusive property of the Owner, and that the Owner shall have the right to immediate possession and use thereof. The Owner shall have and enjoy all right, title and interest in the Construction Documents, including any rights under copyright laws, whether express or implied. The Owner agrees that all such Construction Documents are not to be altered by others and are to be used only in conjunction with the Project unless written consent is obtained from the Design-Builder. Such consent will not be withheld provided the Owner agrees that upon any alterations of the Construction Documents by others, or upon reuse of the Construction Documents for any other project, the Design-Builder will be relieved by the Owner of any and all responsibility arising out of such alterations or reuse in connection therewith. The Owner shall have all right, title, and interest in the Construction Documents, including any rights under copyright law, whether express or implied. On or before the Substantial Completion Date, the Design-Builder and its Design Professional shall transfer and assign all right, title and interest in the Construction Documents to the Owner by execution and delivery to the Owner of the Assignment of Copyright in the form attached here to as Appendix J. The provisions of this section shall survive the termination of this Agreement and shall thereafter remain in full force and effect.

**13.19 Promotion**

Unless specifically authorized in writing by the Owner, the Design-Builder shall have no right to use, and shall not use, the name of the State of Connecticut, its officials, agencies or employees or the seal of the State of Connecticut.

**13.19.1** in any advertising, publicity, promotion;

**13.19.2** to express or to imply any endorsement of the Design-Builder's products or services; or

**13.19.3** in any other manner. In no event may the Design-Builder use the State Seal in any way without the express written consent of the Secretary of State of Connecticut

**13.20 Sovereign Immunity.** Notwithstanding any provisions to the contrary contained in this Agreement, it is agreed and understood that the State of Connecticut shall be not construed to have waived any rights or defenses or sovereign immunity which it may have with respect to all matters arising out of this Agreement except as provided in Sec. 4-61 of the Connecticut General Statutes, as revised or as otherwise provided by law.

**13.21 Severability.** If any part or parts of this Agreement shall be held to be void or unenforceable, such part or parts shall be treated as severable, leaving valid the remainder of this Agreement notwithstanding the part or parts found to be void or unenforceable.

**13.22 Police Powers.** Nothing in this Agreement is in derogation of or restricts the exercise of the police powers of the State of Connecticut.

**13.23 Freedom of Information Act.** The Owner is a "public agency" for purposes of the Connecticut Freedom of Information Act, Sections 1-200 to 1-241 of the General Statutes, as amended (the "FOIA"). Information relating to the Design-Builder, its Contractors and Subcontractors and their affairs received or maintained by the Owner may constitute "public records or files" for purposes of the FOIA subject to public access and disclosure in the manner provided in the FOIA, unless a specific exemption from the public access and disclosure requirements of the FOIA is available in connection with particular records or files. Accordingly, the Owner is relieved from any confidentiality obligations under this Agreement that would be in conflict with its obligations under the FOIA.

- 13.24 No Partnership, Joint Venture or Agency.** Nothing contained herein or done pursuant hereto shall be deemed to create, as between Design-Builder, on the one hand, and the Owner on the other, any partnership, joint venture or agency relationship.
- 13.25 Disclosure of Records.** This Agreement may be subject to the provisions of Section 1-218 of the Connecticut General Statutes, as revised. In accordance with this Section, each contract in excess of Two Million Five Hundred Thousand Dollars between a public agency and a person for the performance of a governmental function shall (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (b) indicate that such records and files are subject to the Freedom of Information Act and may be disclosed by the public agency pursuant to the Freedom of Information Act. No request to inspect or copy such records of files shall be valid unless the request is made to the public agency in accordance with the Freedom of Information Act. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of Sections 1-205 and 1-206 of the Connecticut General Statutes, as revised.
- 13.26 Campaign Contribution Restriction Provision.** For all State contracts as defined in Section 1(g)(i)(c) of Public Act 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this Agreement expressly acknowledges receipt of the State Elections Enforcement Commission's notice ("Notice") advising state contractors, as defined in Public Act 07-1, of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of such Notice. The Notice issued by the State Elections Enforcement Commission, SEEC Form 11, is attached hereto as Appendix I and incorporated herein by reference.
- 13.27 Construction Safety and Health Course.** Pursuant to the requirements of Section 31-53b of the Connecticut General Statutes, as revised, not later than thirty (30) days after the date this Agreement is awarded, the Design-Builder shall furnish proof to the Labor Commissioner that all employees of the Design-Builder and its Contractors or Subcontractors performing manual labor on the Project, pursuant to this Agreement, have completed a course of at least ten (10) hours in duration in construction safety and health approved by the federal Occupational Safety and Health Administration or, in the case of telecommunications employees, have completed at least ten (10) hours of training in accordance with 29 CFR 1910-268.

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**ARTICLE 14 NOTICES**

- 14.1** All notices required to be given or delivered under this Agreement shall be in writing and shall be deemed to have been validly given when received by hand-delivery, by a courier or express service guaranteeing overnight delivery, by certified mail or by facsimile transmission telecopy, addressed as provided on Appendix H attached hereto, or to such other address as may be provided by either party hereto to the other in accordance with the terms of this Article.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

**DESIGN-BUILDER:**

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_, duly authorized

**STATE OF CONNECTICUT**

By: \_\_\_\_\_  
Donald J. DeFronzo  
Its Acting Commissioner of the Department of Construction Services

APPROVED  
STATE PROPERTIES REVIEW BOARD

By; \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM  
ATTORNEY GENERAL

By: \_\_\_\_\_  
Attorney General

Date: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ ) ss.:

On this the \_\_\_\_ day of \_\_\_\_\_, 200\_\_, before me, personally appeared \_\_\_\_\_ who,  
acknowledged that he/she is the \_\_\_\_\_ of \_\_\_\_\_, a  
\_\_\_\_\_, and that he/she as such \_\_\_\_\_, being authorized to do so, executed the foregoing  
instrument for the purposes therein contained, by signing the name of the \_\_\_\_\_ by himself/herself as  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires:  
Commissioner of the Superior Court

STATE OF CONNECTICUT        )  
  )  
COUNTY OF HARTFORD        ) ss.: Hartford

On this the \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, before me, personally appeared Donald J. DeFronzo, Acting Commissioner of the State of Connecticut Department of Construction Services, known to me to be the person described in the foregoing instrument, and acknowledged that she executed the same in the capacity therein stated and for the purposes therein contained.

\_\_\_\_\_  
Notary Public  
My Commission Expires;  
Commissioner of the Superior Court





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***TAB 5***

***Appendices:***

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## ***Appendix A – State Statutes:***

**Option 3: Design - Bid Project Delivery Method:**

**Chapter 59 - State Real Property:**

**§4b-24b. Construction contracts. Total cost basis projects. Requirements.**

(a) Whenever realty uses designed uniquely for state use and for periods over five years are concerned, the Commissioner of Administrative Services shall, whenever practicable, attempt to construct on state-owned land. Whenever the Commissioner of Administrative Services has established specific plans and specifications for new construction on state land or new construction for sale to the state: (1) If it appears to the commissioner that the cost of the project shall be less than one million five hundred thousand dollars, contracts shall be made, where practicable, through a process of sealed bidding as provided in section 4b-91, as amended by this act, relating to projects in excess of one million five hundred thousand dollars; (2) if it appears to the commissioner that the space needs of the requesting agency are less than five thousand square feet, the commissioner shall, whenever practicable, carry on advertising, in accordance with the provisions of section 4b-34 relating to projects in excess of five thousand square feet, in order to allow an equal opportunity for third parties to do business with the state without regard to political affiliation, political contributions or relationships with persons in state, federal or local governmental positions.

(b) The commissioner may designate projects to be accomplished on a total cost basis for (1) new facilities to provide for the substantial space needs of a requesting agency, (2) the installation of mechanical or electrical equipment systems in existing state facilities, or (3) the demolition of any state facility that the commissioner is authorized to demolish under the general statutes. If the commissioner designates a project as a designated total cost basis project, the commissioner may enter into a single contract with a private developer which may include such project elements as site acquisition, architectural design and construction. The commissioner shall select a private developer from among the developers who are selected and recommended by the award panels established in this subdivision. All contracts for such designated projects shall be based on competitive proposals received by the commissioner, who shall give notice of such project, and specifications for the project, by advertising, at least once, in a newspaper having a substantial circulation in the area in which such project is to be located. No contract which includes the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for work by the state for which the total cost is estimated to be more than five hundred thousand dollars may be awarded to a person who is not prequalified for the work in accordance with section 4a-100. The commissioner shall determine all other requirements and conditions for such proposals and awards and shall have sole responsibility for all other aspects of such contracts. Such contracts shall state clearly the responsibilities of the developer to deliver a completed and acceptable product on a date certain, the maximum cost of the project and, as a separate item, the cost of site acquisition, if applicable. No such contract may be entered into by the commissioner without the prior approval of the State Properties Review Board and unless funding has been authorized pursuant to the general statutes or a public or special act.

**Option 1 & Option 1A: Design – Bid – Build Project Delivery Methods:**

**Chapter 60 - Construction And Alterations Of State Buildings:**

**§4b 91. Bidding for public building contracts. Prequalification requirements.**

(a) (1) As used in this section, "prequalification classification" means the prequalification classifications established by the Commissioner of Administrative Services pursuant to section 4a-100, "public agency" has the same meaning as provided in section 1-200 and "awarding authority" means the Department of Administrative Services, except "awarding authority" means (A) the Joint Committee on Legislative Management, in the case of a contract for the construction of or work on a building or other public work under the supervision and control of the joint committee, or (B) the constituent unit of the state system of higher education, in the case of a contract for the construction of or work on a building or other public work under the supervision and control of such constituent unit. (2) Except as provided in subdivision (3) of this subsection, every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by the state that is estimated to cost more than five hundred thousand dollars shall be awarded to the lowest responsible and qualified general bidder who is prequalified pursuant to section 4a-100 on the basis of competitive bids in accordance with the procedures set forth in this chapter, after the awarding authority has invited such bids by posting notice on the State Contracting Portal. The awarding authority shall indicate the prequalification classification required for the contract in such notice. (3) The requirements set forth in subdivision (2) of this subsection shall not apply to (A) a public highway or bridge project or any other construction project administered by the Department of Transportation, or (B) a contract awarded by the Commissioner of Administrative Services for (i) any public building or other public works project administered by the Department of Administrative Services that is estimated to cost more than five hundred thousand dollars but less than one million five hundred thousand dollars, (ii) a community court project, as defined in subsection (j) of section 4b-55, (iii) the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55, (iv) a correctional facility project, as defined in subsection (m) of section 4b-55, (v) a juvenile detention center project, as defined in subsection (n) of section 4b-55, or (vi) a student residential facility for the Connecticut State University System that is a priority higher education facility project, as defined in subsection (f) of section 4b-55. (4) Every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by a public agency that is paid for, in whole or in part, with state funds and that is estimated to cost more than five hundred thousand dollars shall be awarded to a bidder that is prequalified pursuant to section 4a-100 after the public agency has invited such bids by notice posted on the State Contracting Portal, except for (A) a public highway or bridge project or any other construction project administered by the Department of Transportation, or (B) any public building or other public works project administered by the Department of Administrative Services that is estimated to cost more than five hundred thousand dollars but less than one million five hundred thousand dollars. The awarding authority or public agency, as the case may be, shall indicate the prequalification classification required for the contract in such notice. (5) Every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or other public works project administered by the Department of Administrative Services that is estimated to cost more than five hundred thousand dollars but less than one million five hundred thousand dollars shall be awarded, where practicable, through a process of sealed bidding developed by the Commissioner of Administrative Services. The process to be developed by the commissioner shall be different from the process required under this chapter and shall include, but not be limited to, the solicitation of bids from (A) at least three contractors from a list of preselected contractors, or (B) all available contractors from a list of preselected contractors if fewer than three are available, who are deemed by the commissioner to possess the skill, ability and integrity necessary to perform the specific scope of work for the purpose of providing construction services to the state.

**§4b 91. (Continued):**

(b) The awarding authority shall determine the manner of submission and the conditions and requirements of such bids, and the time within which the bids shall be submitted, consistent with the provisions of this section and sections 4b-92 to 4b-96, inclusive. Such award shall be made not later than ninety days after the opening of such bids. If the general bidder selected as the general contractor fails to perform the general contractor's agreement to execute a contract in accordance with the terms of the general contractor's general bid and furnish a performance bond and also a labor and materials or payment bond to the amount specified in the general bid form, an award shall be made to the next lowest responsible and qualified general bidder, or, in the case of a contract awarded by the Department of Administrative Services under subdivision (5) of subsection (a) of this section, to another qualified preselected contractor. No employee of an awarding authority with decision-making authority concerning the award of a contract and no public official, as defined in section 1-79, may communicate with any bidder prior to the award of the contract if the communication results in the bidder receiving information about the contract that is not available to other bidders, except that if the lowest responsible and qualified bidder's price submitted is in excess of funds available to make an award, the awarding authority may negotiate with such bidder and award the contract on the basis of the funds available, without change in the contract specifications, plans and other requirements. If the award of a contract on such basis is refused by such bidder, the awarding authority may negotiate with other contractors who submitted bids in ascending order of bid prices without change in the contract, specifications, plans and other requirements. In the event of negotiation with general bidders as provided in this section, the general bidder involved may negotiate with subcontractors on the same basis, provided such general bidder shall negotiate only with subcontractors named on such general bidder's general bid form.

(c) No person may bid on a contract or perform work pursuant to a contract that is subject to the provisions of subsection (a) of this section unless the person is prequalified in accordance with section 4a-100.

(d) Each bid submitted for a contract described in subsection (c) of this section shall include an update bid statement in such form as the Commissioner of Administrative Services prescribes and, if required by the public agency soliciting such bid, a copy of the prequalification certificate issued by the Commissioner of Administrative Services. The form for such update bid statement shall provide space for information regarding all projects completed by the bidder since the date the bidder's prequalification certificate was issued or renewed, all projects the bidder currently has under contract, including the percentage of work on such projects not completed, the names and qualifications of the personnel who will have supervisory responsibility for the performance of the contract, any significant changes in the bidder's financial position or corporate structure since the date the certificate was issued or renewed, any change in the contractor's qualification status as determined by the provisions of subdivision (6) of subsection (c) of section 4a-100 and such other relevant information as the Commissioner of Administrative Services prescribes. Any bid submitted without a copy of the prequalification certificate, if required by the public agency soliciting such bid, and an update bid statement shall be deemed invalid. Any public agency that accepts a bid submitted without a copy of such prequalification certificate, if required by such public agency soliciting such bid, and an update bid statement may become ineligible for the receipt of funds related to such bid.

(e) Any person who bids on a contract described in subsection (c) of this section shall certify under penalty of false statement at the conclusion of the bidding process that the information in the bid is true, that there has been no substantial change in the bidder's financial position or corporate structure since the bidder's most recent prequalification certificate was issued or renewed, other than those changes noted in the update bid statement, and that the bid was made without fraud or collusion with any person.

**§4b 91. (Continued):**

(f) Any person who receives information from a state employee or public official that is not available to the general public concerning any construction, reconstruction, alteration, remodeling, repair or demolition project on a public building or any other public work prior to the date that a notice for bids on the project is posted shall be disqualified from bidding on the project.

(g) Notwithstanding the provisions of this chapter regarding competitive bidding procedures, the commissioner may select and interview at least three responsible and qualified general contractors who are prequalified pursuant to section 4a-100 and submit the three selected contractors to the construction services award panels process described in section 4b-100a and any regulation adopted by the commissioner. The commissioner may negotiate with the successful bidder a contract which is both fair and reasonable to the state for a community court project, as defined in subsection (j) of section 4b-55, the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55, a correctional facility project, as defined in subsection (m) of section 4b-55, a juvenile detention center project, as defined in subsection (n) of section 4b-55, or a student residential facility for the Connecticut State University System that is a priority higher education facility project, as defined in subsection (f) of section 4b-55. The Commissioner of Construction Services, prior to entering any such contract or performing any work on such project, shall submit such contract to the State Properties Review Board for review and approval or disapproval by the board, pursuant to subsection (i) of this section. Any general contractor awarded a contract pursuant to this subsection shall be subject to the same requirements concerning the furnishing of bonds as a contractor awarded a contract pursuant to subsection (b) of this section.

(h) Any agency that seeks to have a project awarded without being subject to competitive bidding procedures shall certify to the joint committee of the General Assembly having cognizance of matters relating to government administration and elections that the project is of such an emergency nature that an exception to the competitive bidding procedures of this section is required. Such certification shall include input from all affected agencies, detail the need for the exception and include any relevant documentation.

(i) In the event that the General Assembly approves legislation authorizing an exception to the competitive bidding process for a project, the State Properties Review Board shall complete a review of the contract for such project and approve or disapprove such contract no later than thirty days after the Commissioner of Construction Services submits such contract to the board. Such review shall be conducted in accordance with the provisions of section 4b-3. In the event that such review does not occur within the thirty-day period prescribed by this subsection, such contract shall be deemed to be approved.

(j) No person whose subcontract exceeds five hundred thousand dollars in value may perform work as a subcontractor on a project for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by the state or a municipality, except a public highway or bridge project or any other construction project administered by the Department of Transportation, which project is estimated to cost more than five hundred thousand dollars and is paid for, in whole or in part, with state funds, unless, at the time of the bid submission, the person is prequalified in accordance with section 4a-100. The provisions of this subsection shall not apply to [the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55.

(k) Notwithstanding any provision of this chapter, the Commissioner of Administrative Services may purchase equipment, supplies, materials or other property or services under sections 4a-53 and 4a-66 as required to fulfill his or her responsibilities under this chapter.

**§4b-92. "Lowest responsible and qualified bidder" defined. Bid bonds, certified checks, when forfeited.**

As used in this chapter and except as otherwise provided, the words "lowest responsible and qualified bidder" shall mean the bidder who is prequalified pursuant to section 4a-100, and whose bid is the lowest of those bidders possessing the skill, ability and integrity necessary to faithful performance of the work based on objective criteria considering past performance and information contained in the update bid statement submitted pursuant to section 4b-91. Essential information in regard to such qualifications shall be submitted with the bid in such form as the awarding authority may require by specification in the bid documents and on the bid form. Every general bid shall be accompanied by a bid bond or a certified check in an amount which shall be ten per cent of the bid, provided no such bid bond or certified check shall be required in relation to any general bid in which the total estimated cost of labor and materials under the contract with respect to which such general bid is submitted is less than fifty thousand dollars. Failure to execute a contract awarded as specified and bid shall result in the forfeiture of such bid bond or certified check. In considering past performance the awarding authority shall evaluate the skill, ability and integrity of bidders in terms of the bidders' fulfillment of contract obligations and of the bidders' experience or lack of experience with projects of the nature and scope of the project for which the bids are submitted.

**§4b-93. Contract specifications; subtrades, subcontracts.**

(a) Every contract subject to this chapter shall include plans and specifications detailing all labor and materials to be furnished thereunder. Such specifications shall have a separate section for each of the following classes of work if, in the estimate of the awarding authority, the class of work will exceed twenty-five thousand dollars: (1) Masonry work; (2) electrical work; (3) mechanical work other than heating, ventilating and air conditioning work; and (4) heating, ventilating and air conditioning work. Such specifications shall also have a separate section for each other class of work for which the awarding authority deems it necessary or convenient.

(b) Each separate section in the specifications provided for by this section shall specify by number each sheet of plans showing work to be done by the subcontractor under such section, and shall require the subcontractor to install all materials to be furnished by him under such section other than materials which, in the opinion of the awarding authority, it is not customary under current trade practices for such subcontractor to install and the installation of which is expressly required by another section of the specifications. Each class of work set forth in a separate section of the specifications pursuant to this section shall be a subtrade designated in the general bid form and shall be the matter of a subcontract made in accordance with the procedure set forth in this chapter.

(c) Whenever the awarding authority has designated a separate section for a class of work, under subsection (a) of this section, the general contractor shall, when applicable, state as part of its application for partial payment that it considers the work required to be done under any such separate section to be fully completed in accordance with the terms of the contract. The awarding authority shall thereupon conduct an inspection of the work in such class, and if it finds that such work has been fully completed in accordance with the terms of the contract, it shall issue a statement certifying that such work is accepted as fully completed, and shall pay the general contractor in full for such work.

**§4b-94. Rejection of bids.**

In inviting bids, the awarding authority shall reserve the right to reject any or all such general bids, if (1) the awarding authority determines that the general bidder or bidders involved are not competent to perform the work as specified, based on objective criteria established for making such determinations, including past performance and financial responsibility, (2) the low bid price exceeds the amount of money available for the project, (3) the awarding authority determines that the project shall not go forward or (4) the

awarding authority finds cause to reject such bids. If the awarding authority rejects any or all bids pursuant to this section, it shall notify each affected bidder, in writing, of the reasons for such rejection.

**§4b-95. General bid form requirements. Selection by awarding authority. Subcontractors.**

(a) The awarding authority shall furnish to every person applying therefor a form for general bid.

(b) Every general bid submitted for a contract subject to this chapter shall be submitted on a form furnished by the awarding authority. The form provided by the awarding authority shall provide a place for listing the names and prices of subcontractors for the four classes of work specified in subsection (a) of section 4b-93, and for each other class of work included by the awarding authority pursuant to said subsection and state that: (1) The undersigned agrees that if selected as general contractor, he shall, within five days, Saturdays, Sundays and legal holidays excluded, after presentation thereof by the awarding authority, execute a contract in accordance with the terms of the general bid; (2) the undersigned agrees and warrants that he has made good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials under such contract and shall provide the Commission on Human Rights and Opportunities with such information as is requested by the commission concerning his employment practices and procedures as they relate to the provisions of the general statutes governing contract requirements; and (3) the undersigned agrees that each of the subcontractors listed on the bid form will be used for the work indicated at the amount stated, unless a substitution is permitted by the awarding authority. The awarding authority may require in the bid form that the general contractor agree to perform a stated, minimum percentage of work with his own forces.

(c) General bids shall be for the complete work as specified and shall include the names of any subcontractors for the four classes of work specified in subsection (a) of section 4b-93, and for each other class of work for which the awarding authority has required a separate section pursuant to said subsection and the dollar amounts of their subcontracts, and the general contractor shall be selected on the basis of such general bids. It shall be presumed that the general bidder intends to perform with its own employees all work in such four classes and such other classes, for which no subcontractor is named. The general bidder's qualifications for performing such work shall be subject to review under section 4b-92. Every general bid which is conditional or obscure, or which contains any addition not called for, shall be invalid; and the awarding authority shall reject every such general bid. The awarding authority shall be authorized to waive minor irregularities which he considers in the best interest of the state, provided the reasons for any such waiver are stated in writing by the awarding authority and made a part of the contract file. No such general bid shall be rejected because of the failure to submit prices for, or information relating to, any item or items for which no specific space is provided in the general bid form furnished by the awarding authority, but this sentence shall not be applicable to any failure to furnish prices or information required by this section to be furnished in the form provided by the awarding authority. General bids shall be publicly opened and read by the awarding authority forthwith. The awarding authority shall not permit substitution of a subcontractor for one named in accordance with the provisions of this section or substitution of a subcontractor for any designated subtrade work bid to be performed by the general contractor's own forces, except for good cause. The term "good cause" includes but is not limited to a subcontractor's or, where appropriate, a general contractor's: (1) Death or physical disability, if the listed subcontractor is an individual; (2) dissolution, if a corporation or partnership; (3) bankruptcy; (4) inability to furnish any performance and payment bond shown on the bid form; (5) inability to obtain, or loss of, a license necessary for the performance of the particular category of work; (6) failure or inability to comply with a requirement of law applicable to contractors, subcontractors, or construction, alteration, or repair projects; (7) failure to perform his agreement to execute a subcontract under section 4b-96.



**§4b-95. (Continued)**

(d) The general bid price shall be the price set forth in the space provided on the general bid form. No general bid shall be rejected (1) because of error in setting forth the name of a subcontractor as long as the subcontractor or subcontractors designated are clearly identifiable, or (2) because the plans and specifications do not accompany the bid or are not submitted with the bid. Failure to correctly state a subcontractor's price shall be cause for rejection of the general bidder's bid.

(e) Any general contractor who violates any provision of this section shall be disqualified from bidding on other contracts that are subject to the provisions of this chapter for a period not to exceed twenty-four months, commencing from the date on which the violation is discovered, for each violation. The awarding authority shall periodically review the general contractor's subcontracts to insure compliance with such provisions, and shall after each such review prepare a written report setting forth its findings and conclusions.

**§4b-95a. Listing of general bidder as a subcontractor on bid form.**

If a general bidder customarily performs any of the four classes of work specified in subsection (a) of section 4b-93 or any other class of work included by the awarding authority pursuant to said subsection, the general bidder may list himself as a subcontractor together with his price in the space provided in the bid form. A listed sub-bid so submitted by the general bidder shall be considered on a par with other listed sub-bids, and no such sub-bid by a general bidder shall be considered unless the general bidder can show to the satisfaction of the awarding authority, based on objective criteria established for such purpose, that he customarily performs such subtrade work and is qualified to do the character of work required by the applicable section of the specifications.

**§4b-96. Subcontract, form. Procedure on failure of subcontractor to execute subcontract. General bidder's responsibilities.**

Within five days after being notified of the award of a general contract by the awarding authority, or, in the case of an approval of a substitute subcontractor by the awarding authority, within five days after being notified of such approval, the general bidder shall present to each listed or substitute subcontractor (1) a subcontract in the form set forth in this section and (2) a notice of the time limit under this section for executing a subcontract. If a listed subcontractor fails within five days, Saturdays, Sundays and legal holidays excluded, after presentation of a subcontract by the general bidder selected as a general contractor, to perform his agreement to execute a subcontract in the form hereinafter set forth with such general bidder, contingent upon the execution of the general contract, the general contractor shall select another subcontractor, with the approval of the awarding authority. When seeking approval for a substitute subcontractor, the general bidder shall provide the awarding authority with all documents showing (A) the general bidder's proper presentation of a subcontract to the listed subcontractor and (B) communications to or from such subcontractor after such presentation. The awarding authority shall adjust the contract price to reflect the difference between the amount of the price of the new subcontractor and the amount of the price of the listed subcontractor if the new subcontractor's price is lower and may adjust such contract price if the new subcontractor's price is higher. The general bidder shall, with respect to each listed subcontractor or approved substitute subcontractor, file with the awarding authority a copy of each executed subcontract within ten days, Saturdays, Sundays and legal holidays excluded, of presentation of a subcontract to such subcontractor. The subcontract shall be in the following form:

**§4b-96. Subcontract, form. (Continued)**

**SUBCONTRACT**

THIS AGREEMENT made this day of , 20, by and between a corporation organized and existing under the laws of (a partnership consisting of ) (an individual doing business as ) hereinafter called the "Contractor" located at (insert complete address) , and a corporation organized and existing under the laws of (a partnership consisting of ) (an individual doing business as ) hereinafter called the "Subcontractor", located at (insert complete address) .

WITNESSETH that the Contractor and the Subcontractor for the considerations hereafter named, agree as follows:

1. The Subcontractor agrees to furnish all labor and materials required for the completion of all work specified in Section No. of the specifications for (Name of Subtrade) and the plans referred to therein and addenda No. , and for the (Complete title of project and the project number taken from the title page of the specifications) all as prepared by (Name of Architect or Engineer) for the sum of (\$) and the Contractor agrees to pay the Subcontractor said sum for said work. This price includes the following alternates:

Supplemental No. (s) , , , , , .

(a) The Subcontractor agrees to be bound to the Contractor by the terms of the hereinbefore described plans, specifications (including all general conditions stated therein which apply to his trade) and addenda No. , , , and , and , and to assume to the Contractor all the obligations and responsibilities that the Contractor by those documents assumes to the (Awarding Authority) , hereinafter called the "Awarding Authority", except to the extent that provisions contained therein are by their terms or by law applicable only to the Contractor.

(b) The Contractor agrees to be bound to the Subcontractor by the terms of the hereinbefore described documents and to assume to the Subcontractor all the obligations and responsibilities that the Awarding Authority by the terms of the hereinbefore described documents assumes to the Contractor, except to the extent that provisions contained therein are by their terms or by law applicable only to the Awarding Authority.

2. The Contractor agrees to begin, prosecute and complete the entire work specified by the Awarding Authority in an orderly manner so that the Subcontractor will be able to begin, prosecute and complete the work described in this subcontract; and, in consideration thereof, upon notice from the Contractor, either oral or in writing, the Subcontractor agrees to begin, prosecute and complete the work described in this Subcontract in an orderly manner in accordance with completion schedules prescribed by the general contractor for each subcontract work item, based on consideration to the date or time specified by the Awarding Authority for the completion of the entire work.

3. The Subcontractor agrees to furnish to the Contractor, within a reasonable time after the execution of this subcontract, evidence of workers' compensation insurance as required by law and evidence of public liability and property damage insurance of the type and in limits required to be furnished to the Awarding Authority by the Contractor.

4. The Contractor agrees that no claim for services rendered or materials furnished by the Contractor to the Subcontractor shall be valid unless written notice thereof is given by the Contractor to the Subcontractor during the first forty (40) days following the calendar month in which the claim originated.

5. This agreement is contingent upon the execution of a general contract between the Contractor and the Awarding Authority for the complete work.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above-written.

SEAL  
(Type in Name of Subcontractor here)  
WITNESS: \_\_\_\_\_ By: \_\_\_\_\_  
Print Name: \_\_\_\_\_ Its \_\_\_\_\_, Duly Authorized \_\_\_\_\_ Date \_\_\_\_\_  
Print Name: \_\_\_\_\_

SEAL  
(Type in Name of Contractor here)  
WITNESS: \_\_\_\_\_ By: \_\_\_\_\_ / /

Print Name: \_\_\_\_\_

Its \_\_\_\_\_, Duly Authorized  
Print Name: \_\_\_\_\_

Date \_\_\_\_\_

**§4b-97. Arbitration of public works contracts.** Section 4b-97 is repealed.

**§4b-98. 4b-98, 4b-98a and 4b-99. Definitions. Large public building projects; bidding procedures, contracts and payrolls. Construction management services; invitation of responses and contracts for; regulations.** Sections 4b-98, 4b-98a and 4b-99 are repealed, effective June 6, 1996.

**§4b-100. Regulations.**

(a) The Commissioner of Construction Services shall adopt regulations, in accordance with chapter 54, to implement the provisions of sections 4b-91 to 4b-100, inclusive. Such regulations shall include (1) objective criteria for evaluating the qualifications of bidders, (2) objective criteria for evaluating proposals, and (3) the procedures for evaluating bids after the prequalification status of the bidder has been verified.

(b) The Commissioner of Construction Services shall adopt regulations, in accordance with the provisions of chapter 54, establishing a procedure for promptly hearing and ruling on claims alleging a violation or violations of sections 4b-91 to 4b-100, inclusive. Such claims may be initiated by the Department of Construction Services or any party whose financial interests may be affected by the decision on such a claim.

**§4b-100a. Construction services award panels. Screening, interview and selection of contractors. Memoranda re selection. Regulations.**

(a) The Department of Construction Services shall establish construction services award panels which shall each consist of six members. Three of such members shall be appointed by the Commissioner of Construction Services, shall be current employees of the Department of Construction Services and shall serve only for deliberations involving the project for which such members are appointed. Two members shall be appointed by the department head of the user agency and one member shall be a neutral party appointed by the commissioner.

(b) A panel established pursuant to this section shall not be deemed to be a board or commission within the meaning of section 4-9a. Such panels shall be the award panels for any contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for the state pursuant to subsection (g) of section 4b-91 and section 4b-24.

(c) For each applicable contract, the commissioner shall designate one panel to screen all submitted proposals and establish a list of bidders to be interviewed and shall designate a separate panel consisting of different members to interview bidders on the list and submit a list of recommended contractors to the commissioner ranked in order of preference with the most qualified bidder listed first.

(d) The commissioner shall designate one voting member on each panel to serve as chairperson. The chairperson shall moderate the committee, collect votes and compile the results.

**§4b- 100a. (Continued)**

(e) Each award panel shall prepare a memorandum on the selection process indicating (1) how the evaluation criteria were applied by each panel member to determine the most qualified firms, (2) the ranking of each bidder by each panel member which shall be available to the public after execution of the contract with the selected contractor, and (3) a certification by each panel member that the selection of the most qualified firm was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.

(f) The commissioner shall select a contractor from among the list of firms submitted by the award panel that interviewed the contractors. After the commissioner has made a selection, the names of the contractor firms submitted to the commissioner shall be available to the public upon request. In the event the commissioner does not select the most qualified bidder listed by the awards panel, the commissioner shall prepare a written explanation of the commissioner's decision. The commissioner shall also prepare a memorandum on the final phase of the selection process, indicating how the commissioner applied the evaluation criteria to determine the successful bidder. Such memorandum shall include a certification by the commissioner that the commissioner's selection of the successful bidder was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or undue pressure from any person and shall be available to the public after execution of the contract with the selected contractor.

(g) The commissioner shall adopt regulations, in accordance with chapter 54, to implement the provisions of this section.

**§4b- 101. Information re contractors and subcontractors to be provided to Commissioner of Revenue Services.**

The commissioner of each state agency authorized to contract for the construction or alteration of buildings under section 4b-1 or 4b-51 shall provide to the Commissioner of Revenue Services a complete list of all contractors and subcontractors doing work on any such construction or alteration project, if available, and the contractors' and subcontractors' (1) Connecticut tax registration numbers and (2) federal Social Security account numbers or federal employer identification numbers or both, if available, before making final payment on the project.

**§4b- 101a. Awarding authorities to prepare report on status of certain projects and property management contracts. When.** Section 4b-101a is repealed, effective July 1, 2012.

**Option 2: CMR Project Delivery Method:**

**§4b- 4b-103. Construction manager at-risk project delivery contracts.**

(a) In order to carry out any provision of this title for the construction, renovation or alteration of buildings or facilities, the Commissioner of Construction Services may enter into a construction manager at-risk project delivery contract.

(b) The Commissioner of Construction Services shall not enter into a construction manager at-risk project delivery contract that does not provide for a maximum guaranteed price for the cost of construction that shall be determined not later than the time of the receipt and approval by the commissioner of the trade contractor bids. Each construction manager at-risk shall invite bids and give notice of opportunities to bid on project elements, by advertising, at least once, in one or more newspapers having general circulation in the state. Each bid shall be kept sealed until opened publicly at the time and place as set forth in the notice soliciting such bid. The construction manager at-risk shall, after consultation with and approval by the commissioner, award any related contracts for project elements to the responsible qualified contractor submitting the lowest bid in compliance with the bid requirements, provided (1) the construction manager at-risk shall not be eligible to submit a bid for any such project element, and (2) construction shall not begin prior to the determination of the maximum guaranteed price, except for the project elements of site preparation and demolition that have been previously put out to bid and awarded.

**End  
Appendix A  
Connecticut General Statutes**